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IN THE MATTER of the Public Inquiries Act, R.S.A. 1970 C.296 and amendments thereto

AND IN THE MATTER of the Public Inquiry by A.M. Harradence, Q.C., pursuant to Order in Council 1295/73 dated August 21, 1973 into the alleged use of excessive force by Correctional Officers upon inmates of the Calgary Correctional Institution during the evening of July 17, 1973 and any other similar instances.

PUBLIC INQUIRY

Proceedings taken in the Club Room at the Jubilee Auditorium, Calgary, Alberta, commencing on the 1st day of October A.D. 1973.

Volume X

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DEPOSITIONS TAKEN AT 10:00 A.M., OCTOBER 31, 1973.

MR. PEACOCK: Mr. Commissioner, we have concluded the evidence of the inmates involved in this fourth incident and we now propose to proceed with the Correction Staff. I would like to call Mr. J. A. Morrow, please.

JAMES ALFRED MORROW, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Morrow, on July 17th, 1973, were you employed at the Calgary Correctional Institution?

A I was, sir.

Q I gather you are not employed there now.

A No, sir.

Q On July 17th, 1973, what capacity were you employed in?

A I was a Correctional Officer 1.

Q And what shift were you on, on July 17th, 1973?

A The afternoon shift, 4 to 12 midnight.

Q Now, that evening did you have occasion to be involved in the transportation of certain inmates to the Calgary Foothills Hospital?

A I did, sir.

Q Could you tell us how you became involved in this, please.

A I was summoned to the guard room. I was working in the North Control at the time and they summoned me to the guard room and they asked me to escort four inmates to the

Foothills Hospital along with three fellow officers. Now, we left the Institution and it got quite rowdy between the trip from the Institution to the hospital.

Q Were you driving the van?

A No, sir. I was in the back.

Q Who was driving the van, do you recall?

A Mr. Attenborough was.

Q Mr. Attenborough?

A Yes, sir.

Q Did you help place the prisoners from the Institution into the truck?

A I just stepped in and they closed the door behind me.

Q They were already in there when you got there?

A Yes. We took them from the Institution right into the truck.

Q Was there any problem going from the Institution to the hospital?

A No, sir.

Q Were these prisoners handcuffed, do you recall?

A Two were handcuffed just separately and two were handcuffed to each other.

Q And do you recall which ones were handcuffed together?

A Cadieux and Gray were handcuffed together. Bilsky and Poole were handcuffed by themselves.

Q I see. Would Bilsky and Poole be handcuffed with their hands in front of them or behind them?

A It was in front of them, sir.

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Q Who were the other guards that accompanied you to the hospital?

A Mr. Martens was in the back of the vehicle with myself and Mr. Andrews was in the front of the vehicle with Mr. Attenborough.

Q Now, you say that things got "rowdy" on the way from the Institution to the hospital?

A Yes, sir.

Q What happened?

A We just got under way. We had a flashing light on the vehicle so that we would not have to be impeded by other traffic. And the word "escape" was mentioned quite frequently. They seemed to snap out of their intoxication right away and they said, "You pukes are nothing but a bunch of bloody bastards and we will walk right over the top of you when this vehicle stops."

Q And did you reply to any of these comments?

A Cadieux said to me, "Look, take these cuffs off of me", and he pointed at me and I said, "Settle down", and then Gray come at me and I said, "Settle down", and then they wanted the cuffs off and I just ignored them because I was scared. I just ignored them and looked out of the window while we were travelling.

Q Did anything else aside from this verbal abuse occur between the Institution and the hospital?

A No, sir.

Q Would you tell us what happened when you arrived at the

hospital.

A We pulled into the emergency entrance and Mr. Andrews went into the hospital to summons the two City Police constables who were called to assist us. Mr. Andrews came around and opened the side door and I stepped out and Bilsky says, "The pigs are here. Let's get them!" And he walked right over the top of me and went after Constable Johnston. And Cadieux and Gray came right afterwards and Poole stayed in the truck. I told him, I says, "You don't want to get involved in this, Gerry. I will take you in" and he didn't get involved in it at all.

Q Now, you say - is there any doubt that you heard Bilsky say, "The pigs are here. Let's get them"?

A That's what he said.

Q And you say he walked right over you?

A I stepped out of the truck. I stepped backwards out of the truck and he came right over my shoulder.

Q What did he do when he got over your shoulder?

A He struck Constable Johnston with his handcuffs. He was handcuffed like this and he went after Johnston like this.

Q Where did he strike Constable Johnston?

A I believe it was in the side of the neck, sir.

Q What happened then?

A There was an ensuing scuffle and Mr. Andrews, Mr. Attenborough and a nursing orderly helped subdue Bilsky and Gray and Cadieux.

THE COMMISSIONER: Excuse me. Did you say

a medical orderly?

A Yes, sir.

THE COMMISSIONER: From the hospital?

A Yes, sir.

THE COMMISSIONER: Do you know the name of that orderly?

A No, I don't, sir.

Q MR. PEACOCK: Now, was Bilsky involved in the scuffle with the police officer?

A He was, sir.

Q And did Gray and Cadieux get into any physical altercation with anybody?

A They did temporarily and then constable Krauss said, "Gray, settle down", and he just stood there and there wasn't much Cadieux could do because he was handcuffed to Gray.

Q You didn't observe Cadieux or Gray strike anybody, did you?

A Cadieux was on the ground. He was scuffling, but I couldn't tell you who with because it might have been Constable Krauss, but as soon as he said, "Gray, settle down," it seemed to stop right there.

Q Now, what happened when the scuffle died down. Had you already taken Poole into the hospital?

A I took Gerry into the hospital, so I didn't have very much to see about the scuffle itself because I took him right into the emergency.

Q And did you take him into the emergency while the scuffling

was going on?

A Yes I did, sir.

Q What happened when you got Poole inside the hospital?

A They put him in on one of these portable stretchers and we just sat there and I stayed with him and then they gave him some kind of something to induce vomiting so that he could bring up this poisonous liquid that he was supposed to have in him.

Q Were you aware of why they were going to the hospital?

A I was, sir.

Q Why was that?

A Because they had consumed some poisonous liquid that they had made up themselves.

THE COMMISSIONER: You assumed it was poisonous?

A Yes, I did, sir. I assumed it was poisonous.

Q MR. PEACOCK: Now, could you tell us how long you were in the hospital?

A About 45 minutes to an hour.

Q And then what occurred?

A The City Police Sergeant, Hibbard said, we will assist you people back to the Institution. He said, "We will get our security van", and then they put them all inside the security van and took them back to the Institution.

Q So, the four of you who had accompanied them down went back in the van without any inmate?

A Right.

Q Did you observe the inmates riding back to the hospital?

A We pulled up and they pulled up behind us and immediately I walked right into the Institution. I took my radio that I had on my hip and the flashing light. I walked right into the guard room with that and that's the last I seen of it.

Q So you didn't see the inmates get out of the truck?

A No, I didn't, sir.

Q And you didn't see them being brought into the Institution?

A No, I didn't, sir.

MR. PEACOCK: Thank you, sir. Those are all the questions I have. Would you answer other counsel, please.

THE COMMISSIONER: Mr. Scott.

CROSS-EXAMINATION BY MR. SCOTT:

Q Mr. Morrow, with respect to Poole, after he had been, shall we say flushed out in the hospital, he was brought out and put into a police van. Is that correct?

A Yes, sir.

Q I take it there were a large number of police officers present at that time, were there?

A There wasn't that many. There was four police cars that escorted us back.

Q Four police cars?

A Yes, sir, with two men in each car.

Q So, there would be atleast eight police officers?

A It was about that, sir.

Q How many prison guards were there?

A There was about four spare members that were left over from the midnight shift out when we got there at the door and I don't think there was any from our shift because we were quite short that night.

Q So, how many in total would that be?

A There would be about 16 men out there when we got there.

Q 16 men?

A Right.

Q Now, did you see Poole escorted from the hospital into the police van?

A I took him there myself, sir.

Q You took him in yourself?

A Yes.

Q And was he handcuffed to you?

A No, sir. He was handcuffed in front. He was the only one handcuffed in front going back.

Q And the others, how were they handcuffed?

A They were handcuffed behind their back. We were short of handcuffs, so the police constable lent us a pair and the three of them, Gray, Cadieux and Bilsky were handcuffed behind their backs.

Q In this fashion?

A Yes, sir. And Poole was handcuffed to the front because he was no problem at all.

Q Poole didn't offer any form of resistance or make any remarks in the van as well?

A No. I put him into the van. I said, "Look, you are going to have to ride like this because of the trouble we have", and he said, "Okay." He was no problem at all.

Q Now, as I understand your testimony, then, he was no problem at all going to the hospital, either?

A No, he wasn't, sir.

Q It was the other three that created the disturbance?

A Yes, sir.

Q And Poole also created no problem when the other three participated in this disturbance at the hospital?

A He stayed in the van. I told him, I says, "Settle down", and I took him in there myself to the emergency ward.

Q Did you see Poole get struck when he was being brought from the hospital into the van?

A No, sir.

Q And you were with him. You stated that you were escorting him in. In what fashion were you escorting him?

A I just put my arm on his because, you know, like he was kind of wobbly, you might say, because of the intoxication and I walked him right into the Foothills with no problem.

Q You are saying that you saw no-one strike Poole at that point?

A I did not, sir.

Q When they were taken into the truck, where did you go at that point?

A I took Poole into the truck and then I walked back to stand by the room where Bilsky was being kept.

Q When you arrived at Spy Hill again, did you see Poole get

struck at all there?

A I did not, sir. I wasn't there. I went right to the guard room with the radic and the flasher.

Q You didn't see Poole get struck or attacked in any way?

A I did not, sir.

MR. SCOTT: Thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, you have indicated that Gray and Cadieux were handcuffed together on the way down?

A Yes, sir.

Q Would you tell me how many pairs of handcuffs were used and how they were handcuffed?

A There were three pair of handcuffs used and Poole was handcuffed by himself and he sat in the back of the van and Bilsky was handcuffed by himself and he sat on the front seat beside Gray and Cadieux and they were handcuffed, Gray's right hand to Cadieux's left hand.

Q Sir, there has been evidence in this Inquiry that Gray had a pair of handcuffs on both hands. Cadieux had a pair of cuffs on both hands and then they were handcuffed together. Is that correct?

A No, sir.

Q So that each of Gray and Cadieux would have had one free hand?

A That's right, sir.

Q And you are absolutely certain of that?

A I'll say I'm not certain, but I'm pretty sure that they

only had the one pair of cuffs.

Q Because you mentioned that a City Policeman lent you cuffs.

A That was coming back, sir. Coming back we had four pair of handcuffs.

Q I see. I was just curious if they had been handcuffed together as was earlier stated. It seems to me you would have had four pair of cuffs.

A No. Going down there we had three pair of cuffs and coming back we borrowed the constables cuffs.

Q What about in the hospital; were you aware of any foul language being used by any of the inmates or shouting or swearing or anything of that nature?

A No, I wasn't. Because I took Poole right into the cubicle and they closed the curtain behind us and I was talking to him about this liquid that he had swallowed, trying to get the concoction out of him, but he wouldn't cough it up.

Q When you say he"wouldn't cough it up" I take it you mean that he wouldn't tell you what it was?

A I tried to get the answer out of him, but he wouldn't tell me what it was.

Q You say you are no longer a Correctional Officer?

A That's right, sir.

Q Would it be fair to say that you found an incident like this rather disturbing, as far as the kind of job you had to have?

A Not so much, sir. I have got 30 years of work left and I wanted to get some weight off and I wanted an active job and I couldn't find it very active.

Q Most of the time you don't have to wrestle with these kind of people, I take it?

A Right, sir.

MR. MEURIN: No further questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Morrow, why did you go directly from the van to the guard room when the prisoners returned?

A No reason at all, sir. I just had my arms full.

Q Full of what?

A A radio and a flashing dome light and I took them right to the guard room.

Q How many persons were there, shall we say forming the reception when you got back?

A There was about 15, 16 persons.

Q So really one extra wouldn't have made any difference?

A No, sir. It was raining quite hard.

Q Pardon?

A It was raining quite hard.

Q And you didn't have a rain coat?

A Well, it didn't matter, really.

Q Now, tell me, did you handcuff Cadieux and Gray?

A No I didn't, sir. I put the handcuffs on Gerry Poole.

Q Because as Mr. Meurin pointed out, there had been very definite evidence that they were handcuffed together with

their two hands in front of them and then handcuffed right to left. So, there were three sets of handcuffs involved as far as Cadieux and Gray.

A Well, all I saw was three sets for the four of them, for the four inmates.

THE COMMISSIONER: Alright, thank you very much.

MR. PEACOCK: Thank you, Mr. Morrow.

(Witness retires)

MR. PEACOCK: Call W. D. Andrews.

WILLIAM DONALD ANDREWS,

having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Andrews, you are employed at the Calgary Correctional Institution?

A I am, sir.

Q In what capacity?

A Correctional Officer.

Q Correctional Officer 1?

A Yes, sir.

Q And how long have you been so employed there?

A About nine years, sir.

Q And you were employed as a Correctional Officer 1 on the evening of July 17th, 1973?

A I was, sir.

Q Did you have occasion to accompany four inmates from the Institution to the Calgary Foothills Hospital?

A I did, sir.

Q How did you become involved in this transportation?

A I was on patrol that night and I got a radio call to report to the front door and Mr. Merriam informed me that I was to help escort four inmates down to the Foothills Hospital that had consumed some sort of a liquid.

Q Did you then assist in putting the inmates into the truck?

A No, sir. They were already in.

Q So, you just had to get in the truck and then start down there?

A That's right, sir.

Q Where did you ride when you got into the truck?

A I don't quite understand that.

Q Well, were you in the front or back?

A I was at the front door, sir.

Q So, you would be beside the driver?

A Yes, sir.

Q And on the way down from the Institution to the hospital, can you tell us, if anything out of the ordinary occurred?

A Well, these four inmates and I got into the truck and we went and carried on down to the hospital. They were a little bit under the influence of something and they were very belligerent and using foul language and that on the way down to the hospital and this carried on until we arrived at the hospital.

Q Did you make any reply as to any of the comments they directed towards you?

A Well, they called us vulgar language.

Q Did you reply to them or just ignore them?

A No. I just ignored it, sir.

Q Could you tell us the name of the other four inmates?

A Bilsky, Cadieux, Gray and Poole.

Q Were these inmates handcuffed?

A Yes, sir.

Q Could you tell us how they were handcuffed?

A I think they were handcuffed to the front, sir. Two of them were handcuffed together and two individually.

Q Do you recall which ones were handcuffed together?

A No, I couldn't.

Q What happened when you arrived at the hospital?

A I got out of the truck and went in and got the two constables, Johnston and Krauss and they come out and when I opened the door, Bilsky charged out and said, "The pigs are here", and he caught Constable Johnston across the nose with his handcuffs as he come out and he jumped on Constable Johnston. Then I subdued Bilsky and then after he settled down a bit, I let loose of him and then he attacked again.

Q Who did he attack this time?

A The same officer, Constable Johnston. So, then we had quite a little battle at that time. The constable was pretty shook up because he got hit pretty hard across the

nose. And at this time we finally got them into the hospital and they started a little bit again. Bilsky and Constable Krauss got a hold of him and subdued him again.

Q Now, let's just go back to when Bilsky first come on the truck. You say he struck Constable Johnston across the nose with his handcuffs?

A That's right, sir.

Q And then did you endeavour to assist in subduing Bilsky?

A I did.

Q Do you recall striking him while you were endeavouring to subdue him?

A No, I didn't. No. I had a hold of his neck, around the back, holding him this way.

Q Did any of the other Correctional Officers who were there with you get embroiled in the melee involvment with Bilsky at that time?

A No. But, the second time Mr. Attenborough come out again and gave me some assistance.

Q Well, back to the first time when you were battling with Bilsky, did you observe any of the other inmates as to what they were doing?

A No, sir. I was too busy with Bilsky.

Q Now, you say that you got him quietened down and start into the hospital. Did you get inside when he started again?

A No, sir. We didn't get more than three, four feet.

Q And then what did he do?

A He charged at Constable Johnston again.

Q Did he get Constable Johnston?

A Well, Constable Johnston wasn't in a state of anything. He was pretty well half conscious, I think. He was staggering around.

Q And when Bilsky charged at him did you grab hold of him in any way?

A Well, we grabbed him the second time and we both hit the ground and I went underneath. I remember being under the pile myself.

Q Do you recall if any other persons were endeavouring to assist you to bring Bilsky under control?

A Yes. There was Mr. Attenborough and a nursing orderly.

Q Do you know the name of this nursing orderly?

A No, sir, I don't.

Q He come out to the truck to help escort these prisoners in?

A Well, he come out, to give assistance, to help. I imagine to take the prisoners in at this time when this had taken place.

THE COMMISSIONER: This is a nursing orderly from the hospital?

A Yes, sir.

Q MR. PEACOCK: Now, when this altercation was taking place with Bilsky, do you recall any of the prison staff or yourself using a mini streamer or

gas on Bilsky?

A No, sir. I never seen any of that, sir. Because like I said, the second time I was underneath the pile myself.

Q Did you have a gas gun with you?

A No, sir. I had nothing.

Q Did any of the other officers, to your knowledge, have any type of gas dispenser with them?

A Not at that time, sir. Because I was on patrol and I knew nothing of what anybody had.

Q You don't recall gas being used on any of the inmates on the way into the hospital?

A No, sir. Not on any of the inmates.

Q What happened after you got Bilsky subdued and into the hospital?

A Then we sort of paired off and I had inmate Gray for the next two hours which he was of no problem at all. He never gave me any trouble at all.

Q And was that in the hospital?

A That's right, sir.

Q Now, when the time elapsed at the hospital, they were taken back to the Institution?

A That's correct.

Q And they were taken in a police van. Is that correct?

A Right, sir.

Q How did you get back to the Institution?

A I come back in our own vehicle, the four of us. Four

officers, we returned to the Institution ourselves. Mr. Attenborough was the driver and when we returned, Mr. Attenborough got out of the vehicle and Mr. Cater told me to park the vehicle. At this time I took the vehicle and from there I know nothing of whatelse happened.

Q Did you see the inmates arrive back at the Institution?

A I seen the van drive up, sir and as they drove up, I drove away.

Q And you parked the vehicle?

A That's right.

Q Did you see any of the other four inmates involved again that night?

A Did I see any of them at all?

Q. Yes.

A No. I did not see any of them at all.

MR. PEACOCK: Thank you, sir. Those are all the questions I have. Would you answer other counsel, please.

CROSS-EXAMINATION BY MR. STILWELL:

Q On the way down to the hospital, in addition to the swearing and calling you names, did you hear any reference made by the prisoners to attempting to escape?

A Yes. That was brought up. They told us when we made a stop and our procedure is to take the handcuffs usually off at the hospital because usually the doctor asks this and we usually take them off. I guess they figures this and they said that if they take them off, they will walk

all over us.

Q And did you believe them?

A Never had a chance to find out.

MR. STILWELL: I see, thank you.

CROSS-EXAMINATION BY MR. SCOTT:

Q You were seated in the front seat of the van as it was going down to the hospital. Is that correct?

A That's right, sir.

Q And four prisoners, they would be behind you then?

A They were a few feet behind me.

Q And the Correction Officer, Morrow, was with them, was he?

A Yes. And Mr. Martens.

Q Now, with respect to the prisoner, Poole, did you hear Poole make any remarks of a degrading nature?

A Sir, there was remarks made all the time down there, but I couldn't see who it was. The van is quite dark in the back.

Q So you really can't recall Poole specifically making any remarks?

A No, sir.

Q And I take it aswell that when you got to the hospital, Poole did not participate in the assaults on the police constable?

A That's right, sir. On my part, he didn't.

Q Right. And it's your testimony today that you saw no-one or you actually didn't see the prisoners get out

of the police van when they returned to the Institution?

A No, sir. I was parking the vehicle as per my Sergeant, Mr. Cater.

Q Mr. Cater, did he have a flashlight in his hand?

A I did not see nothing, sir. I did not get out of the vehicle. I was on the passenger side and just slipped around past the motor and into the drivers seat.

Q So, you don't recall seeing that?

A No, sir.

MR. SCOTT: Okay.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I take it that there was sort of three separate incidents or melees with Bilsky and this Constable Johnston. Is that right?

A Two, sir.

Q Only two?

A Well, he attacked the first time and then attacked him again with Constable Johnston.

Q And the second time was just inside the hospital?

A No. The second time was outside the hospital.

Q Wasn't there another incident inside the hospital as well involving Bilsky?

A Well, like I said, Constable Krauss grabbed a hold of Bilsky then when Bilsky got a little riled up.

Q Now I take it that you were watching or you were in a position to see and saw all three of these inmates.

A Yes, that's right, sir.

Q Did any of the police constables use a gun, a pistol or

a hand gun to beat Bilsky at all?

A I never seen no gun drawn at all, sir.

Q Was Constable Johnston bleeding after this blow in the face?

A Well, he had red marks around his nose where the handcuffs had caught him across the bridge of his nose.

Q And I take it he was not in the best of shape then?

A No, sir, he was not in the best of shape.

MR. MEURIN: No further questions.

THE COMMISSIONER: Thank you, sir.

MR. PEACOCK: Thank you, Mr. Andrews.

(Witness retires)

MR. PEACOCK: Would you call W.F. Martens, please.

WALTER FRANK MARTENS,

having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Sir, are you employed at the Calgary Correctional Institution?

A That's right.

Q In what capacity?

A Correctional Officer 1.

Q How long have you been employed there?

A Four years.

Q And were you so employed on July 17th, 1973?

A Yes, sir.

Q What shift were you on that day, do you recall?

A I was on off duty. On my day off.

Q Did you have occasion to be called to the Institution that day?

A Yes, sir.

Q And who called you there?

A Mr. Cater.

Q What did he give the reason for you coming?

A He just said that there is an emergency and to come over right away.

Q When you arrived there, what happened?

A I was sent directly to the cell block.

Q What occurred when you got there?

A I had to help three officers that were already there to bring these fellows from their cells to the guard room.

Q How many fellows did you bring to the guard room?

A Myself? I only brought one.

Q Who did you bring?

A Bilsky.

Q And were there three other inmates brought into the guard room at the same time?

A That's right.

Q What kind of shape was Bilsky in when you were taking him to the guard room?

A Not too bad. He was walking on his own and didn't need any help.

Q When you got to the guard room, what happened?

A They were - the handcuffs were placed on them and we

proceeded to the Foothills Hospital.

Q Did you know why you were taking them to the guard room?

A Yes, sir.

Q How did you know that?

A I was told by one of the officers in the cell block.

Q What did he tell you?

A That they had been drinking some concoction and they had to be taken to the Foothills Hospital.

Q Alright now, you say the cuffs were placed on these fellows at the guard room?

A That's right.

Q Do you recall who placed the cuffs on the inmates?

A Not all of them. I believe in my mind it was Mr. Cater that put the cuffs on Cadieux and Gray and cuffed them to each other.

Q They were cuffed together?

A Yes.

Q Do you recall observing how many sets of cuffs were used?

A Yes, sir. There were only three sets of cuffs.

Q And were the three sets used on Cadieux and Gray?

A No. Only one set.

Q So, they were cuffed together with one set of cuffs?

A That's right.

Q And then Cadieux or Poole and Bilsky were each cuffed separately?

A That's right.

Q Did you help escort these three into the van and take them to the hospital?

A That's right.

Q Did any of them have difficulty walking?

A No.

Q When you got them into the van, I take it you proceeded with three other officers and these four inmates to the Foothills Hospital?

A That's right.

Q What happened on the way?

A They became very belligerent and they used many four letter words and they were threatening to walk all over us and walk away from us.

Q Did you reply to these or did you ignore them?

A No. I more or less ignored them until we got there.

Q Where did you ride down in the van?

A I was in the back with these inmates.

Q With Mr. Morrow as well?

A That's right.

Q What happened when you got to the hospital?

A Well, as soon as the door of the van was opened, Bilsky stepped out and assaulted a police officer and there it was, just one big donnybrook.

Q Well, you say as he stepped out and assaulted, did he jump out, run out, step out or how did he conduct this assault?

A Well, he jumped out as quickly as he could and the police officer had no chance to step aside even. He was on him

so fast that he just didn't have a chance.

Q Did Bilsky say anything as he jumped out of the truck?

A I didn't hear him say anything.

Q Where were you? Were you still in the van?

A I was in the back seat of the van, so I was the last one to get out of the truck.

Q Did you see what Bilsky did to the constable?

A Yes. He assaulted him on the nose with his hands cuffed together.

Q How did this happen? Did you see that happen?

A Yes. As soon as he stepped out of the van he just hit the constable right on.

Q And then what happened?

A Well, then I was still in the van and I didn't see too much. I was with Cadieux and Gray and I just took those guys in.

Q Did they step out of the truck with you?

A Just ahead of me.

Q Did they get involved in any kind of a scuffle or in this donnybrook with Bilsky?

A A little bit of pushing around, but we managed to get these fellows in without too much trouble.

Q Did you see Gray or Cadieux strike anybody?

A No, sir.

Q Did you see them pushing anybody?

A Well, they tried to push us all around a bit, yes.

Q Did anybody fall down as a result of that?

A No.

Q And then, how did you get them into the hospital? And that's Gray and Cadieux I am talking about.

A We just escorted them in and put them in the room.

Q Did you have them around the neck?

A No.

Q How did you escort them in?

A Just by the arm.

Q Was there another officer helping you to escort them in?

A Yes, there was.

Q Who was that?

A I couldn't say. I can't remember.

THE COMMISSIONER: Was it a Correction Officer?

A Yes, I believe it was.

Q MR. PEACOCK: When you got them into the hospital, and that's Cadieux and Gray, did you observe Bilsky again?

A No. He was still out in the parking lot.

Q How about Gerald Poole?

A I don't remember where he was exactly at that point. Someone else was with him.

Q When you got Cadieux and Gray into the hospital, were there any further difficulties with them?

A Yes. They were very belligerent and abusive in front of the hospital staff. The nurses and so on and they were

still threatening us. They were still saying, take off the cuffs and they would walk all over us and get away from us.

Q What were they saying?

A Things like, "Take these cuffs off you cock suckers and we will walk all over you."

Q And did this go on in front of the hospital staff as well?

A That's right, sir.

Q Was there anymore physical violence involved at the hospital?

A Just a little bit to restrain them. That's all.

Q And in what way?

A Just to separate them into their different rooms in the hospital.

Q Did you do that violently?

A No.

Q What happened?

A We just lead them out by the arm to the separate rooms.

Q They were subsequently taken back to the Institution?

A That's right.

Q By the police officers?

A That's right.

Q And the four of you proceeded back in the van that you had come down in?

A That's right.

Q Well, when you got back to the Institution, what happened that you observed?

A We just escorted them back into the Institution. I went in with the first man.

THE COMMISSIONER: Who was that?

A Cadieux.

Q MR. PEACOCK: Was Cadieux the first out of the truck?

A That's right.

Q I take it you had arrived back first, had you, and got out of the van?

A I don't really remember that. I think we were behind the van, I believe.

Q And then you got out and did you help take the inmates out of the truck, out of the police van?

A Yes. We took them from the door of the van and escorted them in?

Q Now, who was the first prisoner or inmate out of the police van?

A Cadieux.

Q And when Cadieux came out of the police van, was he out on his feet?

A That's right, yes.

Q Did he fall?

A No.

Q Were you the one that escorted Cadieux from the truck into or up to the guard room?

A That's right. Mr. Attenborough and myself.

Q You and Mr. Attenborough?

A Yes.

Q Now, when Cadieux got out of the truck, did you grab hold of him in any particular way?

A By the arm again.

Q You and Mr. Attenborough each had one arm?

A That's right.

Q And your evidence is that Cadieux didn't fall down when he got out of the van?

A No, not in my opinion.

Q It's not a question of opinion. Did he fall or didn't he?

A No.

Q You escorted him in. Did he offer any resistance to you?

A Yes, he did.

Q What kind of resistance did he offer?

A Well, he braced his feet every time he had a chance to. He was just reluctant to go.

Q And you and Attenborough helped him along by holding him by the arm?

A Yes, that's right.

Q Did you drag him?

A No.

Q Did you drag him by the hair?

A No.

Q Did you have hold of him by the hair?

A No, sir.

Q Did you strike him?

A No, sir.

Q Did Mr. Attenborough strike him?

A No, sir.

Q Did you see anyone strike Cadieux from the time he got out of the van until he got to the guard room?

A No, sir.

Q What happened when he got to the guard room?

A He was put - we put him downstairs below the guard room in the segregation cell.

Q Did you assist in taking him down those stairs?

A That's right.

Q Did you push him down the stairs?

A Just enough to take him down.

Q Did he go down on his head?

A No, sir.

Q Did he go down walking?

A Yes.

Q Did he fall at any time going down the stairs?

A No, sir.

Q Was he struck at any time going down the stairs?

A No, sir.

Q Was he struck in the segregation cells area?

A No, sir.

Q Did he fall down in the segregation cells area?

A Just when he entered the cell he went down to his knees.

Q Was he pushed down?

A Just forced into his cell to get him in there. That's all.

Q Was he walking before he went in?

A That's right.

Q Did you then leave with Cadieux in his cell?

A That's right.

Q Did he have the handcuffs still on?

A Yes, sir.

Q Now, did you see Bilsky, Poole or Gray being escorted from the van down to the guard room and then down to the segregation cells?

A From there I only saw Bilsky escorted from the guard room to the segregation cells.

Q So, you saw Bilsky taken down the stairs from the guard room to the segregation cells?

A That's right.

Q Who was accompanying him down there?

A Mr. Schlegel and myself.

Q So, I take it you went back up the stairs and then helped take Bilsky down?

A That's right.

Q Did Bilsky fall on his way down the stairs?

A No, sir.

Q Did you have him by the hair?

A No, sir.

Q Was he dragged from the guard room to the segregation cell area by the hair?

A No, sir.

Q Well, how was he taken down?

A Same way we took Cadieux down, by the arm.

Q You each had an arm?

A That's right.

Q Did you or Mr. Schlegel strike Bilsky as you took him from the guard room to the segregation cell area?

A No, sir.

Q Did you see anyone strike Bilsky?

A No, sir.

Q Did you observe that he had any injuries on his head or face?

A No, sir.

Q When you got him downstairs, did he fall at all?

A No, sir.

Q Did Bilsky ever leave his feet from the guard room to the segregation cells area?

A No, sir.

Q And you are sure about that?

A Just that he was bracing his feet all the way. But he was on his feet.

Q Were you helping him along by holding him the hair?

A No, sir.

Q Was Mr. Schlegel holding him by the hair?

A No, sir.

Q When you got him down, did you get him into his cell?

A Yes.

Q Did he fall when he went into his cell?

A Same as before. He was down on his knees as soon as

he went into the cell.

Q Did you ever push or did you have to push him in the cell?

A Yes.

Q Why?

A Because he was reluctant to go in.

Q Did you then leave Bilsky with his handcuffs on as well?

A That's right.

Q And then you went upstairs?

A That's right.

Q Did you see inmate Poole or Gray after that?

A No, sir.

Q Did you then go back home?

A I went up to the coffee lounge and I waited there for further instructions.

Q Did you receive any instructions?

A Later. We were told that we could go home.

MR. PEACOCK: I see. Those are all the questions I have. Would you answer other counsel, please.

THE COMMISSIONER: Mr. Stilwell.

MR. STILWELL: No questions.

THE COMMISSIONER: Mr. Scott.

CROSS-EXAMINATION BY MR. SCOTT:

Q As I understand it, then, Mr. Martens, you were in the back of the van with these four prisoners and I believe Mr. Morrow. Is that correct?

A That's right.

Q And in that van there was some verbal abuse heaped out. Right?

A That's right.

Q And I understand that they called you a "puke"?

A That's right.

Q And they used four letter profanities to describe you and the other members of the guards, is that right?

A That's right.

Q Were you insulted or incensed by this?

A Well, we take this all the time. Yes, we were insulted by it.

Q Does it bother you?

A No, not anymore, no.

Q Did it bother you then?

A No.

Q How long have you been a Correction Officer?

A Four years.

Q So, it didn't bother you too much to have this happen?

A No.

Q To have these people screaming and yelling at you?

A Not in that sense, no.

Q Well, in what sense did it?

A Well, it's just that we have to take this all the time.

Q But does that upset you to have to take it all the time?

A Yes.

Q So, it did bother you, then, that night. Right?

A Yes.

Q Did you say anything to them?

A No.

Q Nothing at all?

A No.

Q Did you ever tell them that perhaps you might like to hit them if they were going to hit you?

A No.

Q Nothing like that?

A No.

Q You never made any threats to strike back at them?

A No, sir.

Q And then, as I understand it, Bilsky struck out at one of the police officers when the van door opened. Is that right?

A That's right.

Q And Poole didn't do anything, did he?

A Not at that time, no.

Q As I understand it, Poole didn't make any of the verbal remarks in the van, either?

A No, sir.

Q So really, it was the other three that were making these verbal assaults on your character, then?

A That's right.

Q Now, did you describe it - I have forgotten the word, but how would you describe the incident at the hospital? I mean, was it a wild brawl, was it a fairly small little incident or what was it like?

A It was quite a wild brawl.

Q It was quite a brawl?

A That's right.

Q And Bilsky in fact assaulted or attacked Constable Johnston, I believe, twice. Right?

A That's right.

Q And were you having trouble with the other two?

A That's right.

Q And they didn't want to go into the hospital?

A They offered some resistance.

Q They offered some resistance?

A Yes.

Q Well, did they hit you?

A No.

Q They just, I take it, were stubborn. They were trying to resist your efforts to push them into the hospital?

A That's right, sir.

Q And all you did, you say, was to take them by the arm and push them along?

A Yes. Helped them along.

Q You never hit them in the back?

A No, sir.

Q You never struck them at any time?

A No, sir.

Q Did you see anybody strike Mr. Bilsky?

A No, sir.

Q Nobody struck him at all that you saw?

A I wasn't with him very long, no.

Q Well, you saw him strike Constable Johnston.

A That's right.

Q And you saw him wrestled to the ground?

A Yes.

Q And I take it you saw one of the guards trying to drag Bilsky off of Johnston?

A No, sir.

Q Did you see Johnston get attacked again the second time?

A No, sir.

Q Were you in the hospital at that point?

A Yes. On the way in.

Q Do I understand from your conversation with people that Johnston was in fact attacked again or do you know?

A Just from -

Q From what you talked about with the other guards. Isn't that right?

A That's right.

Q Now, how long did it take you to get these other two men into their separate rooms at the hospital.

A Oh, not very long, probably ten minutes or so.

Q And they were swearing, as I understand it, and being fairly abusive in front of the hospital staff?

A That's right.

Q Didn't that incense you and upset you?

A Yes. Within myself, yes.

Q And yet all you did was just continue to push them along by their arms?

A That's right.

Q Did you ever kick anybody in the shins or excuse me, in the calf, the back part of their legs?

A No, sir.

Q Did you ever put a knee into anyone's back to get them moving?

A No, sir.

Q Did you see anyone else do it?

A No, sir.

Q Okay. So, as I understand it, ultimately these men were taken from the hospital and placed into a police van?

A That's right.

Q And there were quite a few police officers there at that point?

A Yes.

Q You didn't ride with them back in the van, did you?

A No, sir.

Q Now, when you arrived there, how many people from the gaol staff would be waiting for this group to arrive?

A There were several. In my mind, there may have been about 10 or 15.

Q 10 or 15 in addition to the four of you?

A To the four of us, yes.

Q And in addition to the police officers?

A Yes, sir.

Q So, would you agree that there were approximately eight police officers?

A Pardon me?

Q Would you agree that there would be about eight police officers there?

A There may have been.

Q There were four police vehicles, weren't there?

A Yes, sir.

Q And a police van?

A Yes, sir.

Q And it was raining?

A That's right.

Q And it was dark out?

A That's right.

Q Now, there were police dogs there too, weren't there?

A Only one.

Q Where was it when you saw it?

A It was quite a ways back of the van on a leash.

Q And was there someone holding the leash?

A That's right, there was.

Q Did you see anybody get bitten by that dog?

A No, sir.

Q Okay. I want you to tell me what you did immediately after arriving at the gaol?

A I took Cadieux into the Institution.

Q And when you say you took Cadieux, you arrived in a

separate Institution van. Right?

A That's right.

Q And I take it you got out and walked over to the police van?

A That's right.

Q Did you escort Cadieux directly from the police van?

A That's right.

Q Did you see him leave the van?

A No.

Q Like he wasn't out standing around waiting for someone to take him in when you got there?

A No. He was in the van.

Q He was right in the van?

A Yes, sir.

Q Now, he gave you a fair amount of trouble getting down to the segregation cells area, didn't he?

A That's right.

Q And you are saying that no-one ever struck him on the way down?

A Not that I saw, no.

Q And you never struck him?

A No, sir.

Q Was he still yelling abuses at you?

A Some.

Q Was he using profane words?

A Yes.

Q And weren't you incensed by that?

A Same as before.

Q Weren't you incensed by this whole thing?

A (No answer)

Q And you never hit him?

A No.

Q Did you see anybody hit him at all?

Did you see any of the prisoners get struck by any person at all?

A They were just given enough force to handle the situation.

Q And by the words "enough force" did you feel that the situation was a dangerous one?

A Yes, it was.

Q It was dangerous both at the hospital and also at the gaol, wasn't it?

A That's right.

Q These people were resisting you?

A Yes.

Q And they were giving you a very difficult time, both physically and verbally, heaping these insults at you?

A That's right.

Q And when you say "enough force" to meet the situation, what do you mean by that?

A Well, just to grab the fellows and take them where you want them to go.

Q Were they sort of just pushed along or were they really given violent pushes?

A No. Just by the arm, we took them by the arm and helped them and I was with the first one.

Q And as you were escorting them you gave them a little tug every once in a while because they wouldn't go?

A That's right.

Q Why did these people fall on their knees when they went into the segregation cells? Did you push them down to their knees?

A We pushed them into the cell and they tripped as they were going through the door.

Q What did they trip on?

A The side of the cell door.

Q Both of them tripped on the side of the cell door?

A It's a narrow door, yes.

Q Did you see anybody squirt any mace in anybodies face or any type of substance to subdue these people?

A No, sir.

Q Pardon?

A No, sir.

Q Did you make any remarks? You know, did you swear back at these guys that were swearing at you?

A No, sir.

Q Did you hear any of the police officers swear at any of these prisoners?

A No, sir.

Q Did you hear any of the other guards and the prison officials say anything that could be interpreted as

swear or profane words?

A No.

Q Did you see anybody - and by "anybody" I mean anybody in the Institution, i.e. a prison official or prison guard or police officer in any way strike any of these prisoners, either by slapping them, punching them, kicking them or anything of that nature?

A No, sir.

MR. SCOTT: Okay. That's all the questions I have.

THE COMMISSIONER: Mr. Meurin.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I believe I am correct in stating that Cadieux had testified that on his way down to the segregation cells he fell down the last half of the stairs and he was knocked down. Would you say that that was correct or incorrect?

A It woud be incorrect, because we held him by the arms and we had him by the arm all the time.

Q When you were escorting him, at any time did you knock him down?

A No, sir.

Q I take it at that time he was handcuffed with his hands behind his back?

A That's right.

Q So, in your opinion, there was no need to strike him because he couldn't strike back?

A There was no point in it.

MR. MEURIN: No further questions.

MR. PEACOCK: I have one further question.

RE-EXAMINATION BY MR. PEACOCK:

Q Did any of the four of you from the Institution have a mini streamer at the hospital that night?

A Yes. Somebody had one.

Q Did you see it used that night in the melee at the hospital?

A At the hospital? Yes.

Q And do you know who had it?

A No, sir.

Q But you recall somebody squirting gas or whatever it was in the mini streamer at one of the inmates while this donnybrook was going on at the hospital?

A Yes. I got some in my eyes.

Q Do you know which one of the inmates got squirted with it?

A Cadieux.

Q It was Cadieux?

A Yes.

Q And he was one of the fellows you were helping escort?

A That's right.

Q And when Cadieux was squirted, was he acting up in any way?

A He was resisting.

Q In what way?

A He refused to go into the hospital. He was just bracing himself in every way he could.

Q Did he strike anybody before he got shot with this mini streamer?

A No, sir.

MR. PEACOCK: Alright, thank you.

RE-CROSS EXAMINATION BY MR. SCOTT:

Q Who squirted him?

A I couldn't see because I got some of it in my eyes, too.

Q But you saw it before you were squirted, didn't you?

A I didn't see it. I felt it.

Q Now look, there were only four officers there at that time, weren't there?

A Yes, sir.

Q There was yourself, there was Morrow , Andrews and who was the fourth person?

A Mr. Attenborough.

Q Now, you say it wasn't you. I take it it wasn't you?

A No, it wasn't.

Q You can recall that?

A Yes.

Q So it was one of the other three now. Are you suggesting that you can recall getting squirted and that you were escorting the person that was being or that was in fact squirted?

A I was busy watching the person.

Q And yet you don't know who squirted that stuff?

A I was busy with the person that I was escorting. I didn't have time to look around to see who was holding the can.

Q Haven't you informed yourself since then and asked anyone who squirted it?

A That would just be heresay.

Q Well, that's fine. We have got heresay in this Inquiry. Tell me who you think did it in your investigation.

A It might have been Mr. Attenborough.

Q It might have been?

A Yes.

THE COMMISSIONER: Mr. who?

A Mr. Attenborough.

MR. SCOTT: Okay.

RE-CROSS EXAMINATION BY MR. MEURIN:

Q Sir, if I might refresh your memory. It seems to me that there was one further officer that arrived at the hospital after you did in a separate vehicle and that would be Mr. Merriam.

A That's right.

Q So he was there as well?

A Yes.

Q But he arrived after you people did?

A That's right.

Q Now, this shot of gas or whatever it was, I take it that that was just a short squirt to more or less subdue him?

A That's right.

Q It wasn't done in the sense that it was steady spray at

him or anything like that?

A No, sir. It was not.

MR. MEURIN: No further questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Martens, Cadieux and Gray were handcuffed together?

A That's right.

Q Was there just one set of handcuffs you used to handcuff them both?

A That's right.

Q They weren't handcuffed in front of them?

A No.

Q Just by separate handcuffs?

A No, sir.

Q Well then, does that mean that each one would have a hand free?

A That's right.

Q Now, you say that Cadieux was still handcuffed to Gray when he got out of the vehicle?

A That's right.

Q Who was looking after Gray?

A I was just with them both. I was right behind Cadieux.

Q Who was leading, Gray or Cadieux?

A Well, they were standing there together. They just weren't going to go anywhere.

Q Well, there was a shot of gas given to get them moving?

A Yes, I would say so.

Q No then, when you were entering the hospital, the cuffs

were removed from Gray and Cadieux?

A Yes.

Q Who did you go with?

A Bilsky.

Q You went to Bilsky?

A Yes, into separate rooms.

Q And who looked after Gray and Cadieux?

A I don't know, because I was the first one to leave that immediate area.

Q Now, when you got back, then, you selected Cadieux yourself, did you, to take into the Institution?

A Not really.

Q You just picked anyone that was loose?

A No. The first one to come out to the van.

Q I see. Now, when they came out, were they handcuffed separately or together?

A Separately.

Q And the extra set of cuffs had been obtained. Is that right?

A That's right.

Q And did you take Cadieux alone?

A Mr. Attenborough came to help me as soon as I got started into the Institution.

Q As soon as when?

A As soon as I got started into the Institution.

Q And then Attenborough came and assisted you?

A That's right.

Q Did you each take an arm?

A Yes.

Q Was Cadieux still--

A He was trying to brace himself.

Q And all you did was pull him along?

A That's right.

Q And that's everything?

A That's all.

Q You didn't punch him or shove him to get him moving?

A No, sir.

Q Like with a knee or a foot?

A There was no need to.

Q Pardon?

A There was no need to.

Q He wasn't struggling that bad?

A Well, he was struggling.

Q Now, is Attenborough about the same size as you?

A Possibly a little bigger.

Q Probably 200 pounds?

A Yes.

Q Six foot one?

A Yes.

Q And you could probably handle Cadieux yourself?

A Probably could.

THE COMMISSIONER: Anything arising out of that? Well, thank you, Mr. Marten.

MR. PEACOCK: Might we adjourn for

ten minutes, sir.

THE COMMISSIONER: Yes.

(Brief recess)

MR. PEACOCK: Call Mr. Attenborough, please.

JAMES BERNARD CORNISH ATTENBOROUGH, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Attenborough, you are a Correction Officer at the Calgary Correctional Institution?

A Yes, sir.

Q How long have you been employed there?

A Nearly six years, sir.

Q And were you a Correction Officer 1?

A Right.

Q And you were so employed on July 17th, 1973?

A Right.

Q On that date, could you tell us what shift you were working?

A From one to nine shift, sir. Special shift.

Q That's one in the afternoon until nine at night?

A Right.

Q And what were your duties that day?

A All kinds of work.. Working in and around the guard room and around 4:30 to go downtown and pick up day paroles and bring them back, take them money, get their change and get them fed.

THE COMMISSIONER: I don't think we need all that.

A Etc.

Q MR. PEACOCK: So you had general duties that day?

A Right.

Q Did you have occasion to be involved in the transportation of inmates to the Foothills Hospital that evening?

A I did.

Q How did you get involved in that?

A Nine o'clock, when I was going off duty, I realized there was something wrong, so I stayed over to help.

Q Did you end up escorting the inmates from the cell block to the guard room?

A Yes. I went to the cell block and I was told to do so and I brought Bilsky up to the guard room and I believe there was another officer with me.

Q When you brought Bilsky up to the guard room, what kind of shape was he in?

A He walked.

Q When you took him to the guard room, what happened?

A The four inmates were handcuffed. We only had three sets of handcuffs. Bilsky and Poole were handcuffed like this.

Q Cadieux and Gray were handcuffed with a third set of handcuffs. We only had three sets of handcuffs.

Q Was Cadieux and Gray handcuffed together?

A Cadieux and Gray were handcuffed together.

Q And with one set of cuffs?

A Right.

THE COMMISSIONER: Tell me, were there only three sets of handcuffs in the Institution or was that all you could find?

A At the time there were only three sets available.

THE COMMISSIONER: Where were the rest?

A No idea.

Q MR. PEACOCK: Did you then help escort the prisoners from the guard room to the van?

A I did.

Q And was there any difficulty in getting them from there to the van?

A No. They walked.

Q Why were you taking them to the hospital?

A They were to have some medication to empty the stuff out of their stomach.

Q Do you know why?

A Well, they thought they had taken an air freshener or something. Turpentine perhaps.

THE COMMISSIONER: What?

A Turpentine, I think, but certainly air freshener.

Q MR. PEACOCK: When they were placed in the van, were you the one who drove the van?

A I was.

Q And you drove from the Institution to the Foothills Hospital?

A Correct.

Q Did anything out of the ordinary happen on the way down to the hospital?

A Yes. There was the usual abusive language.

Q By whom?

A By Bilsky, Cadieux and perhaps a little by Gray.

Q Did Poole get himself involved in the abusive language?

A I don't think so.

Q Was there any discussion about escape on the way down?

A Yes. They got pretty belligerent. "Take the hand cuffs off and we will walk all over you."

Q Now, when you got to the hospital, what happened?

A There was a fight.

Q Well, how did that happen? Was this in the back of the van?

A No.

Q Well, let's start with the doors of the van when they were opened.

A At the hospital there is two places where the ambulance drive in. Those doors were opened. We drive in there. And Mr. Andrews got out, I believe, and then the police appeared. The side door was open and I got out of the drivers side and came around and by that time the fight was on.

Q Did you see how the fight got started or was it on already when you got into view?

A It all happened so quickly. As far as I'm concerned,

no-one precipitated anything. Bilsky and Cadieux were the ones that started it.

Q Alright, what happened? What did you see. Were they fighting with each other?

A I saw two fights going on. Mr. Martens was attempting to stop Cadieux and I had the gas in my pocket and I gassed Cadieux. The top came off the can and I got it in the face and so did Mr. Martens. I had no gas left to give Bilsky who was struggling with the others.

Q Now, the first person that you dealt with when you got into the range of the melee was Cadieux? Is that correct?

A This is correct.

Q Was he still handcuffed to Gray?

A Right.

Q What was Cadieux doing when you got there?

A Mr. Martens was holding him but he was struggling hard, so I thought, well a quick squirt for him and then onto to the next one.

Q Did you have a mini streamer?

A And this is a small can of gas, is it?

A Well, it's more like an oversized propelling pencil.

THE COMMISSIONER: Perhaps you could show it to the witness.

MR. PEACOCK: Exhibit four, Mr. Clerk.

A Yes, that's it.

Q MR. PEACOCK: Is that what you had?

A A smaller one, yes.

THE COMMISSIONER: Is that similar to it?

A That's similar to it, yes.

Q MR. PEACOCK: And the one you had was smaller, was it?

A Well, I never really recollected. I think we have about two sizes of it.

Q Who gave you that mini streamer that evening?

A I can't remember. I realized that there was going to be problems and I got gas. Whether I got it myself or I was given it, I don't know. But I got it.

Q So, your proposal was to give a shot of this gas to Cadieux and quieten him down?

A Which it did.

Q And then endeavour to give it to Bilsky?

A Right.

Q What happened when you squirted Cadieux?

A His eyes started to stream and that was over and he quietened down.

Q Did you then squirt Bilsky?

A No. The top came off the gas can and I already mentioned that Mr. Martens got some in the face and so did I.

Q So, you didn't have any gas left to squirt Bilsky?

A No, none, unfortunately.

THE COMMISSIONER: What instructions did you have as to the effective use of these?

A None really, sir. Just common sense, perhaps. It's better to use gas.

THE COMMISSIONER: No, I am sorry. I didn't mean as to when to use it, but in the use of it. I probably phrased it badly.

A No specific instructions, but it's not much good unless you aim it into the face.

THE COMMISSIONER: I appreciate that, But, are you given any instructions as to how to operate the container or the instrument?

A Well, it's just -

THE COMMISSIONER: Or do you just read the directions.

A No, sir. It's just like any aerosol can, but they're not made too well.

THE COMMISSIONER: But in answer to my question, do you have any instructions in the use of these instruments?

A (No answer)

THE COMMISSIONER: Do you recall any?

A Not really, no. There's not a specific course, like you have in the army, no.

THE COMMISSIONER: Fine, thank you.

Q MR. PEACOCK: Now, after you squirted Cadieux and Martens yourself with the gas, did Cadieux quieten down?

A Cadieux quietened down then, but it started again inside the hospital.

Q Well, at that time, after you quietened him down, did

Mr. Martens take Gray and Cadieux into the hospital?

A Yes.

Q And what did you do?

A Well, I actually didn't see him take him into the hospital because I was tied up with Bilsky.

Q So, you turned to endeavour to calm Bilsky down?

A Right.

Q What was he doing when you finished with Cadieux?

A Bilsky struggled all the way. He was handcuffed. We attempted to get another set of handcuffs on his legs, but that didn't work. So, eventually I think three or four of us held him and we just carted him in that way.

Q Did you have hold of his hair?

A No. I had a leg.

Q Did you see if anybody had hold of his hair?

A At the hospital?

Q Yes.

A No.

Q There were police officers involved in this scuffle, were there?

A Right.

Q Did you see any of the police officers striking Bilsky on the head with anything?

A One police officer who was staggering around after being hit.

Q Did you see the other police officer strike Bilsky with anything?

A No.

Q What was the other police officer doing?

A One was staggering around. The other one was attempting to hold Bilsky, I think, with Mr. Andrews.

Q Did you see that police officer with a gun in his hand?

A No.

Q You then grabbed a part of Bilsky and the bunch of you hauled him into the hospital?

A Correct.

Q Did you see Bilsky get struck or hit in any way during this time?

A In the hospital?

Q Yes.

A No.

Q Did you see him struck or hit by anyone outside?

A We were just trying to grab hold of him and stop him from struggling and take him inside the hospital.

Q And you ultimately got him in there?

A Right.

Q What happened after you got him into the hospital? What did you observe that happened inside the hospital?

A Well, there was foul language directed towards the hospital staff. Against us, against the police, against the nurses. They were eventually separated. I had Cadieux in one room with two police officers. I understand that police handcuffs were used and Gray and Cadieux were separated into different rooms.

Q They were all placed in separate rooms, were they?

A Yes. I had Cadieux.

Q And how long were you at the hospital?

A Approximately two hours, I suppose.

THE COMMISSIONER: Were you alone with Cadieux in the room?

A No. I had two police officers. This was later after we called in help.

THE COMMISSIONER: I see.

Q MR. PEACOCK: You then went back to the Institution, did you?

A Right.

Q And I take it the four of you went back together and the inmates went in the police van?

A That is correct.

Q Did you arrive at the Institution before the police van or after?

A Before.

Q And what occurred then?

A (No answer)

Q Did you help bring the inmates out of the van and into the Institution?

A No. I was talking to the warden and Mr. Merriam and then Cadieux was brought in by Mr. Martens, so I took another arm and we took him out to the segregation cell.

Q Where were you? Did you see these inmates being brought out of the truck at all?

A No.

Q Were you at the front of the Institution or inside?

A Inside, talking to the warden and Mr. Merriam.

Q Just inside the front doors?

A Yes, in that vicinity.

Q And the next thing that occurred, Mr. Martens arrived with Cadieux?

A Right.

Q Was he dragging him by the hair?

A No.

Q How did he have him?

A Had him by one arm.

Q Now, you then took the other arm?

A Correct.

Q And you escorted him as far as the guard room?

A Straight down into segregation.

Q From the front doors to the guard room, did either you or Mr. Marten strike Cadieux?

A No.

Q Was he resisting or struggling?

A He was quite reluctant to go.

Q Did you give him a boost with your knee or anything to get him moving?

A No. We just had an arm. We just had an arm each and he was going along.

Q So, you helped him down the hall?

A Right.

Q And when you got to the stairs, did you push him down the

stairs?

A No.

Q Did he fall on his way down the stairs?

A No.

Q Did you both keep hold of his arm?

A He was held all the time until he was pushed into the cell or placed in the cell, however you want to put it.

Q Pardon me?

A Placed in the cell is, I think, what I said.

Q Did you push him in?

A No.

Q Did he fall when he went in?

A Probably lost his balance.

Q Do you know what he lost his balance on?

A (No answer)

THE COMMISSIONER: Conceivably it was from a push, wasn't it?

A Possibly.

Q MR. PEACOCK: In fact he was being a little reluctant when you were trying to put him in the cell, wasn't he?

THE COMMISSIONER: I think we know how he got in the cell, Mr. Peacock.

MR. PEACOCK: Did you strike him at any time?

A Why? He was handcuffed.

Q Alright, that's what I wanted to know. Did you strike him?

A What?

Q Were his hands cuffed behind his back?

A Yes, as far as I remember. Yes, the police handcuffed them all behind their backs when they brought them back.

Q And when you left him, he was locked in his cell with his handcuffs on. Is that correct?

A Correct.

Q Did you then go back upstairs?

A I did.

Q And did you help bring anybody else down?

A No.

Q Did you see any of the other inmates involved that night?

A No, nothing.

Q So that was the end of your involvement in the incident?

A Yes, thank goodness.

MR. PEACOCK: Those are all the questions I have. Answer other counsel, please.

MR. STILWELL: No questions.

CROSS-EXAMINATION BY MR. SCOTT:

Q Well, tell me; you said that you didn't push him in. I know that The Commissioner said we all know and I believe we all know how he got into the cell. But, in answer to a question that was put to you by Mr. Peacock, you said you didn't "push" him in.

THE COMMISSIONER: Now Mr. Scott, he said he pushed and then he said he placed him in. I don't think that there is any question that you pushed him into

that cell, did you?

A (No answer)

MR. SCOTT: That's what I wanted to know.

A Well, he has got to go in. He was reluctant to go in.

THE COMMISSIONER: Yes.

Q MR. SCOTT: All I want to know is, whether he was pushed in or not. Was he pushed in?

A He was placed in the cells.

THE COMMISSIONER: Mr. Scott, I am going to find that he was pushed in.

MR. SCOTT: That's fine.

Q I understand that verbal abuse on the guards is a common occurance out at the Correctional Institution. Is that right? In other words, you are called profane names quite often.

A I would say so. It depends on how you treat the man. Sometimes it just goes over the top of your head.

Q But on the evening that this incident took place, there was a fair amount of harsh language used against the guards on the way to the hospital, wasn't there?

A Yes, there was.

Q And did it offend you?

A Yes, I suppose.

Q Were you upset with these men before you arrived at the hospital because of the way they were treating you?

A I was apprehensive.

Q You stated that you were apprehensive actually before you left because you took the canister of gas, didn't you?

A I have been down to the hospital before with people. I learned my lesson and I came prepared.

Q Did you have any sort of weapon with you, any billy club?

A No. No weapon at all.

Q And the aerosol or type of dispenser of gas is how you came prepared. Is that right?

A Yes.

Q Why were you apprehensive on this occasion?

A Because when people drink, sir, they get out of hand sometimes.

Q Did you think these people were intoxicated?

A There was certainly something the matter with them.

Q There was something peculiar about them, was there?

THE COMMISSIONER: Mr.Scott, perhaps I should tell you that some of them admitted to drinking a gallon.

MR. SCOTT: I realize that, sir. All I am asking is what this man thought.

Q Did you strike any of these men at all?

A No, I did not.

Q Did you see anyone else strike any of them?

A No.

Q Did you use any language - did you swear at them at all?

A In a public place? No.

Q Well, public or private place.

A It doesn't help, does it?

Q It doesn't matter to me. Pardon me?

A I doesn't help, does it? All we -

Q But all I'm asking you, did you or didn't you?

A No.

Q Okay. Did you hear anyone else do it?

A I don't think so.

Q So, the only person you escorted down was Cadieux. Right?

A This is correct.

Q That was the only person you escorted downstairs at the gaol?

A This is correct.

Q Nobody put a knee to his back or kicked him in the legs or pushed him along with their foot or anything of that nature?

A Not that I know. I had an arm and that was it.

MR. SCOTT: Okay.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, you mentioned that there was concern that they used an air freshener in this concoction they had brewed. Is that correct?

A Yes.

Q Would that be called Mint Spray?

A Yes.

Q And I believe you used the word "placing" Cadieux in the cell. Was he reluctant to go?

A I put it that way, yes.

MR. MEURIN: No further question.

THE COMMISSIONER: Thank you very much.

MR. PEACOCK: Thank you Mr. Attenborough. Perhaps in view of the time we could adjourn until 1:30.

THE COMMISSIONER: Yes.

DEPOSITIONS TAKEN AT 1:30 P.M. OCTOBER 31, 1973

MR. PEACOCK: I will call Allan Merriam, please.

ALLAN MERRIAM, having previously been duly sworn, examined by Mr. Peacock, testified as follows:

THE CLERK: You remember you are under oath?

A Yes.

Q MR. PEACOCK: Mr. Merriam, you are still under oath?

A Yes.

Q You are Assistant Deputy Warden at the Calgary Correctional Institute?

A Yes, sir.

Q Were you on duty on July 17th, 1973?

A Yes, I was.

Q What shift were you on, do you recall?

A Four to twelve shift, sir.

Q And that day did it come to your attention that some of the inmates in the Institute had been partaking in some sort of liquid?

A That is right, sir. Approximately eight o'clock. We were in the South Wing when they notified us.

Q Do you recall who notified you?

A Mr. Cater.

Q And what did you do as a result?

A Went up to the guard room. Called all the cleaners

down one by one.

Q And these are people who would have access to moving along the cell block?

A That is right, sir.

Q Did you interview them about the consumption of some kind of a brew?

A Yes, sir.

Q And what did you find out?

A I didn't find out till the last man what they had been drinking.

Q What did he advise you?

A He advised me that he had been drinking tomato juice, yeast, water and had put mint spray in it, and also put these round deoderant things around the bottom of the bag to keep the smell away from the officers.

Q Who was the inmate who advised you of this?

A I would rather not say. If it gets back then we have got problems again, sir.

THE COMMISSIONER: Did you say you had problems?

A We would have if it got back, he would be labelled.

THE COMMISSIONER: I won't ask you to.

A Thank you.

MR. PEACOCK: Thank you.

Q MR. PEACOCK: I take it as a result of your investigation you found out there were four inmates involved in the consumption of this brew?

A That is right, sir.

Q What did you do as a result?

A I put them one by one down into segregation until I could get to the bottom of it. When I found out what they had been drinking I had them all brought up. I got the nurse down out of her room to come down and check them out.

Q What happened as a result of her check?

A She said we'd better get them to the hospital because the mint spray there was something in there that was poison , should get their stomachs pumped right away.

Q So what did you do as a result?

A We located four officers. We had to bring one in from the house across the road because we didn't have enough. One was on from one to nine. We had to keep him over. And we sent four officers with the four inmates down to the Foothills Hospital. We notified the city police that they were going down.

Q Now, did you have the inmates brought down from the cell block to the guard room?

A All except one. We brought him down in the wheelchair because he was too drunk to walk down and he --

Q Do you know which one that was?

A -- spewed up all the way down the halls. Cadieux, sir.

Q Cadieux?

A Yes, sir.

Q When they got to the guard room were they handcuffed?

A When we were getting them ready to send them downtown, yes.

Q Do you recall who placed the handcuffs on the inmates?

A No, sir, I do not, no.

Q Do you recall how each of them was handcuffed?

A When they were going out of the building there was -- Bilsky was handcuffed his hands in front of him. Poole was handcuffed with hands in front of him, and the other two was handcuffed together by one arm.

Q I see. Were the two who were handcuffed together were they handcuffed with one set of handcuffs or three sets of handcuffs?

A One set of handcuffs. One set of handcuffs. We only had three sets in the Institution at that time in the drawer.

THE COMMISSIONER: Do you have more now?

A I think there is some more up at the front now, sir. Some new ones.

Q MR. PEACOCK: Do you recall issuing a mini streamer or a gas billy to any of these four officers?

A No, sir, I do not.

Q I take it at that point they were put into a van and escorted to the Foothills Hospital?

A That is right.

Q Did you go in the van?

A No, sir.

Q Did you go to the hospital?

A Yes, sir.

Q How did you go?

A I went in a staff car.

Q By yourself?

A Yes, sir.

Q Did you arrive there before or after the van with the inmates got there?

A After the van had got there, sir.

Q What did you observe when you got there?

A I observed a fight on the ground. There was one inmate, there were two city police and two of our officers trying to subdue him to get him into the hospital, sir.

Q Do you know which inmate that was?

A Bilsky.

Q Did you observe what was happening with respect to the inmates Gray and Cadieux who were handcuffed together?

A They were already in the hospital, sir.

Q By the time you got there?

A That is right.

Q How about the inmate Poole?

A He was also in the hospital, sir.

Q What did you do and what did you observe next?

A I went into the hospital to see what was happening to the other three. Poole was lying in a bed just inside the door to the Emergency. And I told Gerry, I said "Look, Gerry", I said "I don't want anything more out of you tonight." He said "Okay, Mr. Merriam", he said "I will be quiet." and I went into the room where Gray and Cadieux was and they were handcuffed together. And as soon as they brought Bilsky in then Cadieux started to shoot off his mouth also.

Q What did he start to say?

A A lot of obscene words, calling the policemen everything he could think of.

Q What happened then?

A We separated them and took them into separate rooms, sir.

Q How long were you at the hospital?

A I was there approximately forty minutes, because I told Mr. Cater when I left that I would keep in contact with him at all times by radio, which I did, and I called him back and he said "I think we are going to have trouble in the West Wing." This is at approximately 10:25. I said "Well, there is enough men down here now, enough policemen, I'll return to the Institution immediately", which I did.

Q I take it that when Mr. Cater advised that he thought

there was going to be trouble in the West Wing it developed into the incident which we heard evidence on already?

A That is right, sir.

Q I take it therefore you got back at the Institute before the -- your problems were placed back in a van and brought to the Institute?

A Yes.

Q Were you at the Institute.when the van arrived from the hospital with the four inmates?

A Yes, sir.

Q Did you go outside the front door and watch the unloading of --

A No, sir, I didn't.

Q What was your first contact with these four inmates after they arrived?

A When they were coming through the front door I was holding the door open for them.

Q And do you recall the order that they came in?

A No, I don't.

Q Did you assist in taking in of the inmates from the front door down to the segregation cells?

A No, sir.

Q Did you observe the inmate Bilsky being brought into the Institute?

A Yes, I did.

Q Do you recall him being on the ground and being dragged?

A No, I do not. He walked through the door, sir.

Q Do you recall who was accompanying him?

A No, I don't.

Q Do you recall any of the inmates being dragged as they came from the front door on the way down towards the guard room?

A Coming into the Institution?

Q Yes.

A No, sir, I didn't see anybody getting dragged, sir.

Q Did you see any scuffles or anything going on outside the front door?

A No, sir.

Q I take it that having seen -- did you see all four inmates being brought into the Institute?

A Yes, sir, I did.

Q Did you observe any of the guards pushing or kicking any of these inmates on their way through the door and down the hall?

A No, sir, I did not.

Q I take it that after they got by you that was the last contact you had with the four of them that night?

A No, I had more contacts with Poole.

Q In what way?

A I took Mr. Jackson into the room to see Gerry. He was down at the guard room and there is a room there, and he had a cut just over in the eyelash -- or the eyebrow there. It was bleeding, but not very much.

It wasn't bleeding very much. Mr. Jackson talked to him and we took him up to the nurse to have it -- and the nurse wiped it off and put a piece of tape on it.

Q What was the purpose of having Warden Jackson talk to Poole?

A That again is information that he had given us, sir, and I would rather not say it.

THE COMMISSIONER: Given to you by an inmate?

A Yes, sir.

MR. PEACOCK: Fine. Thank you, Mr. Merriam. Those are all the questions I have. Would you answer other counsel please.

THE COMMISSIONER: Mr. Scott?

CROSS-EXAMINATION BY MR. SCOTT:

Q Did you see any police dogs out there at the Institute after they were brought back?

A After the dog was brought into the Institution, yes. Not outside I didn't. After he was brought into the Institution.

Q After who was, the dog?

A The dog. The officer brought the dog in.

Q The dog was brought right into the Institution, was it?

A That is right.

Q Did you see Mr. Poole bitten by that dog?

A No, sir, I did not.

Q Did you see the dog bite anyone?

A No, sir.

Q Did you see any of these four prisoners struck by any person that night?

A Not struck. They were wrestling on the ground outside the hospital trying to get him up on his feet to get him into the hospital.

Q That was Bilsky?

A That was Bilsky, sir.

Q Poole, when you talked to him in the hospital did he appear to be rational and appreciate what you were saying to him?

A Poole was quite cool at that time.

Q Was he pretty cool throughout the point that you brought him up originally?

A Until the time I left the hospital he was still on the bed there and he wasn't doing anything.

Q What about the cut over his eye, how did he get that?

A I don't know.

Q How big was the cut?

A Not very big.

Q Was it bleeding?

A A little bit of blood on it, that is about all. It wasn't above the eye. Was right in the hair here.

Q Right in the hair?

A The nurse just washed it off and put a bandage on it, that is all.

Q There were no stitches administered?

A No, sir.

Q Did he make any other complaints of being injured?

A No, sir.

THE COMMISSIONER: No complaint about a dog bite?

A He told the nurse when we got him upstairs.

THE COMMISSIONER: Perhaps you can go into that.

MR. SCOTT: Yes.

Q MR. SCOTT: Now, when you originally took him in to speak to Warden Jackson was this in the process of a Warden's Court hearing?

A Not exactly, no.

Q Were you attempting to find out what had taken place or was this an inquiry of an official --

A More or less, yes, what -- where they had got the stuff and everything, and he gave the information but I would rather not say.

Q Right. I don't necessarily want to go into that. I want to find out what the purpose of the Inquiry was, whether it was an official Warden's Court Hearing.

A No, it wasn't. They had him in the room. When they took him in from the front they took him down to the

guard room and put him in the room.

Q Did you find that Poole was cooperative at this Inquiry with Warden Jackson?

THE COMMISSIONER: How do you want him to answer that?

Q MR. SCOTT: Well, cooperative in a sense -- I mean was he belligerent and -- what was his attitude, was he belligerent or hostile?

A No, he wasn't at that time, no.

Q I see. And he at that time of course complained about the cut across his eye, did he?

A He didn't complain at all. We noticed it there. I noticed it when he came in the front door as a matter of fact.

Q So he had it prior to coming into the Institution from --

A From outside.

Q From outside. Okay. And you took him upstairs to the nurse's quarters?

A Yes, sir.

Q And it was there that -- were you there and did you hear him complain about a bite?

A He said the dog had bitten him. I think the nurse -- if I am not mistaken the nurse washed it off and that or did something to it. I don't know what she did.

Q When you say she washed it off, you mean the dog bite?

A She treated the dog bite.

Q Did you see it, where was it?

A It was on the right side here.

Q On the right side just in the middle of his --

A That is correct.

Q -- side. Is that right?

A Right in here.

Q Okay. Did Mr. Poole complain to you that he had been beaten by anyone?

A I don't think Mr. Poole knew what happened at that time.

Q Why do you say that?

A Gerry has talked to me since that time. He says he doesn't remember anything after he left the hospital to come back.

Q Is that what he has told you?

A That is what he has told me.

Q That he doesn't remember anything?

A That is right.

Q Okay.

A And he also told me the other three inmates egged him on because he didn't get out and fight down at the hospital, and that is why he started to fight when he got back to the Institution. That is the words he has told me.

Q I thought he said he didn't remember anything about what took place at the Institution?

A This is what he told me. I am just going by what he

told me on interviews.

Q Well, does he remember fighting at the Institution or does he remember nothing?

A He says he doesn't remember anything after he left the hospital coming back.

Q That is what he told you. So he couldn't remember fighting with anyone, is that right?

A I don't think he could.

Q In any event it is your testimony today that he made no complaints to you about being assaulted or beaten up that night outside the prison?

A No, he didn't.

Q Did he make any complaints about being beaten up while inside?

A No, he didn't. After we brought --

Q Did he advise you how he received the cut above his head? Or above his eye .

A Not that night he didn't. Later on he said somebody hit him with a flashlight.

Q Did he identify that person?

A Pardon me?

Q Did he identify that person?

A No, he didn't.

Q Did you ask him who it was?

A He doesn't know.

Q Well, did you ask him?

A That is right, I asked him. He doesn't know.

THE COMMISSIONER: He told you he didn't know?

A That is right. He said he didn't know who hit him.

Q MR. SCOTT: Do you know what happened to Mr. Poole after he left the nurse's quarters?

A We brought him down to the guard room and somebody took over from there and took him down to the new cells, men's cells.

Q You had nothing further to do with him after?

A As far as the guard room, yes, but after that, no.

Q Did he have any other cuts and abrasions on him other than the one over his eye?

A Just where the dog had put his teeth in him, or scratched him. I don't think it was very deep.

MR. SCOTT: Okay. Thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, this night when these four inmates got involved with this brew, that was the same night that there was problems in the West Wing?

A That is right, sir.

Q Is it true that when you left in the staff car to go to the hospital nothing had happened in the West Wing at that time?

A No, sir, it was quiet when I left. Otherwise I wouldn't have went downtown, sir.

Q And when did you first become aware of problems in the West Wing?

A Approximately 10:25 when I radioed back to the guard room. Mr. Cater told me he figured on problems in the West Wing because they wouldn't go to bed, they were hollering and screaming.

Q What did you do then?

A I told him I would get right back to the Institution immediately, which I did.

Q And by this time I take it the four inmates at the hospital were already in the hospital and being treated?

A That is right, sir.

Q What did you do then when you received this word that there was problems in the West Wing?

A I went in and I told somebody I had to return to the Institution because there were problems starting up there, and there were enough city police and our own officers down there to look after the hospital at that time.

Q So did you leave before the rest of your staff then, leave the hospital?

A Yes, I did.

Q And you returned to the West Wing?

A That is right.

Q Now, was anyone aware, anyone in the West Wing aware of what had happened down at the hospital?

A Not that I know of, sir, no.

Q Did you inform them?

A I informed Mr. Cater, yes.

Q What did you inform him?

A I just told him there was trouble down at the hospital, and that was about, oh, ten, 10:05, something like that, and then when I called back later he said there was trouble in West Wing, I'd better get back, and I rushed back.

Q So that was the only communication?

A That was the only communication with myself at the hospital and Mr. Cater.

Q That was the only communication at the time which occurred between the two incidents, the West Wing and then these four cleaners?

A Yes, sir.

Q You have indicated that you saw the four cleaners being brought back into the Institution?

A That is right, sir. I was holding the door open when they come in, sir.

Q Were any of them resisting moving?

A Bilsky was putting up a little bit of a fight when he came through the door, but that guy was about the only one.

Q In what way would he be putting up a fight?

A Well, more or less shoving his shoulders around, trying to push the police, the officers out of the way.

Q Was he resisting going forward, going back into the

Institution?

A Yes, he was.

Q Sort of pushing back on his feet?

A That is right.

MR. MEURIN: I have no further questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Merriam, when did you have this conversation with Poole that you told us that he recalled nothing after leaving the hospital?

A Sunday.

Q This Sunday?

A Last Sunday, a week ago. I had to get him down -- he had a request in to see him. He started to talk to me.

Q How did the conversation come up?

A He said he had to go to the Inquiry on Monday. He asked me what he was going to say. I said you just get up and tell the truth, Gerry, what happened. He said "I don't know what happened."

Q Did he tell you anything else?

A No, he asked me, he said "What should I say?" I said "Just tell the truth, Gerry, that is all you have got to tell", because I said "I am going to get on the stand and tell the truth."

THE COMMISSIONER: Anything arising out of that, gentlemen?

CROSS-EXAMINATION BY MR. SCOTT:

Q When you interviewed him at the Institution that evening and discussed various things with him I take it that he appeared to appreciate the questions that you were asking him, did he?

A I wasn't asking him questions. He was asking me questions.

Q I am talking about the time you were with Warden Jackson the night of the 17th. Before you took him up to the nurse's quarters you talked to him. Did he not appear to appreciate what he was saying and what you were saying and the conversation back and forth?

A I couldn't really say.

Q Well, did you ask him -- did you talk to him?

A Not that much. I just called the Warden in. I said "Gerry wants to tell you something."

Q Did you hear him say something to the Warden?

A I heard him say something.

Q Was it coherent?

A Pardon me?

Q Was it coherent? Did you understand what he was saying?

A I understood what he was saying.

Q He was speaking in English and was using sentences --

A That is right.

Q -- and was making understandable statements, right?

A Yes, he was.

Q When you spoke to him at the hospital isn't it true that he answered your question when you told him to settle down?

A That is right, he did.

Q He appreciated what you were saying to him, didn't he? What I am trying to get at is that this man was not intoxicated or -- that his mind hadn't ceased to function to the effect that he --

A He could talk, yes, but he was lying on the bed. Now, how drunk he was I don't know or if he was drunk. But he was lying in the bed in the hospital.

Q But he wasn't lying in the bed when he spoke to Warden Jackson?

A No, this was after the incident happened outside the front of the Institution.

Q He appeared to be lucid I take it at that time?

A I would say so.

RE-EXAMINATION BY THE COMMISSIONER:

Q What did he say to the Warden?

A Do you want me to say it in Court here, sir, in the Inquiry?

Q Let me ask you this, Mr. Merriam, is it going to affect --

A It is going to affect the Institution, sir, as far as some of the officers are concerned, yes.

Q Mr. Merriam, is it within the scope of this Inquiry? You know what the scope of this Inquiry is, to

investigate any alleged excessive use of force --

A Yes.

Q --by Correctonal Officers upon inmates. Now, keeping that in mind and any other incidents which -- now, does it come within that term of reference?

MR. PEACOCK: Perhaps, Mr. Commissioner, I could ask Mr. Merriam a question which I believe might clear it up.

RE-EXAMINATION BY MR. PEACOCK:

Q I take it the questions that Warden Jackson, you were discussing with Poole concerned the acquisition of this brew, is that not correct?

A That is right, sir.

Q It didn't deal with any of the violence --

A No, sir.

Q -- or any of the allegations --

A No, sir, it was with the brew, sir.

THE COMMISSIONER: I am not interested in it at this time.

MR. MEURIN: Sir, I have got a couple of things I neglected to --

THE COMMISSIONER: Go ahead.

MR. MEURIN: -- ask with respect to the mint spray.

RE-CROSS-EXAMINATION BY MR. MEURIN:

Q This is an air freshener or deoderizer that was at the Institution?

A It is a mint deoderizer, sir, spray.

Q I take it that at the time this occurred it was available to the cleaners?

A That is right, sir.

Q And is it correct that it is no longer available to them?

A That is right, sir.

Q Was there concern that other sort of injurious ingredients might have been in the brew as well?

A Yes. We found an empty tin can marked turpentine on it. We didn't know whether that was in it or not. Mrs. Turner thinks it was, the nurse, but I couldn't say, sir.

Q Did you have any opportunity to smell any dishes or bowls or containers or anything like that?

A We smelled the brew, sir.

Q Could you describe the odor?

A It's something I have never smelled before, let's put it that way. I wouldn't drink it anyway by the smell of it.

Q I take it that the reason that you took these people to the hospital was that you were concerned about their own welfare and their own health?

A After the nurse had informed me that it could be poison, sir, that we should get their stomachs pumped, I did, I took them down.

Q So you weren't taking them down to the hospital

for any purpose to sort of punish them or anything like that?

A No, sir. For their own benefit, sir, if they had been drinking poison.

MR. MEURIN: No further questions.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Thank you, Mr. Merriam.

A Thank you, Mr. Peacock.

(Witness retires)

MR. PEACOCK: Call Mr. Cater, please.

WALTER JAMES CATER, having previously been duly sworn, examined by Mr. Peacock, testified as follows:

THE CLERK: You are sworn and you are under oath.

A Yes, sir.

Q MR. PEACOCK: Mr. Cater, you are still under oath?

A Yes, sir.

Q On July 17th we have heard evidence from you that you were on duty at Calgary Correctional Institute?

A That is correct.

Q You are a Correctional Officer III?

A II, sir.

Q Correctional Officer II. That night in question did you become involved in events resulting from the consumption by some of the inmates of a home brew?

A Yes, sir.

Q How did you get involved in this?

A I had a call from cell block to say that these four cleaners they were -- had consumed some home brew. I asked if he knew what it was. He said no. So I shut up the cell block and they tried to find out exactly what the ingredients were because some ingredients they put in those home brews could kill them as you know. I was kind of concerned because, you know, I had heard stories, read stories, about guys drinking home brews and eventually passing away.

Q Perhaps we should get it clear on the record, Mr. Cadieux, I don't know.

A Okay, sir. However, I questioned Cadieux first on what he had drunk and he absolutely refused, got obnoxious and started swearing at me and wanted to fight me.

Q If we could just get to the point. I take it you made inquiries through the inmates and found out that four of them had consumed some brew?

A That is right, sir.

Q And as a result were they taken down to the guard room?

A Yes, yes. One at a time. And they were seen by Mr. Merriam and the nurse.

Q Were they then put back in the cell block?

A They were put back in the cell block.

Q What happened then?

A Well, we were still -- at least I was still investigating what was in the home brew. And eventually I spoke to Poole and he says that they put tomato juice, yeast and some mint deoderizer in it. I got the mint deoderizer can and saw the ingredients. The main ingredient that worried me was elthyl glycol. I knew this was a poison substance. I am a first aid instructor so I have had quite a bit of experience with this kind of thing. I went to nurse and she said in this case you'd better get them down to the hospital right away.

Q So were they then brought down to the guard room?

A They were brought down to the guard room, and Cadieux was throwing up quite a bit when I got back to the cell block, so I suggested he be brought down in a wheelchair.

Q What happened when they got to the guard room?

A When they got to the guard room I handcuffed Gray and Cadieux together. We had three sets of handcuffs. But I don't know who handcuffed the other two, but they were handcuffed individually.

Q Did you use the three sets on Gray and Cadieux?

A No, sir.

Q Just one set?

A Just one set, yes.

Q And you cuffed them right arm to left arm?

A It was I believe Cadieux's left arm to Gray's right arm.

Q All right. Were they then transported into a van for transport to the hospital?

A That is correct, sir.

Q Did you take them out and put them in the van?

A No. I just walked down to the front door and opened the door and they got in the van themselves as a matter of fact. As a matter of fact they seemed to sober up almost right away then, compared to what they were like before.

Q All right. What is the next thing that occurred with respect to your involvement with these four?

THE COMMISSIONER: Mr. Peacock, would you clear up a matter for me? You said they were taken back to the cell block. Is this the same cell block in which they were found?

A No, sir, they were put downstairs in meditation cells. And this is while they were throwing up and making quite a bit of noise, sir.

Q MR. PEACOCK: Now, they had gone to the hospital. What is the next thing that you heard or became involved in with respect to these four?

A We had a radio message from I believe it was Mr. Morrow to say that they were on their way back and they would call us when they were in the vicinity

of the Institution. Approximately ten minutes later the radio went again and they said they were in the vicinity of the Institution. I went out the front and several other officers went out to the front door. When I got to the front it was raining at the time. We stood in the foyer in the front looking out. And then we saw our van come along and then the police van and several police cars behind. When our van turned in front of the Institution I went out to open the door and there was nobody in it. I said to the driver "Where are these inmates"? He said oh, he said "They are all in the police van behind." I said "Well, you'd better get this thing out of the way then." And he moved. I went back to the front door to open the front door for the inmates to come through, but there was a bit of scuffle there.

Q Did you help to take the inmates out of the police van?

A No, sir.

Q Where were you standing when the police van doors were opened?

A I just told you I was at the front door.

Q So I take it you weren't in the vicinity to help bring these gentlemen out of the van?

A Not out of the van, no, sir.

Q Did you observe in which order the inmates came out of the van?

A I didn't actually no, because I saw Poole jump out of the van and he had his handcuffs like this and he was going for a police constable. Where the police constable was exactly I couldn't tell you. I was maybe fifteen or twenty feet away from him.

Q What did you see then?

A There were two other police officers closed in and one of our officers from the Institution. I believe it was Mr. Addinall. But it appeared to me that Mr. -- Poole was going to strike this officer in the face with the handcuffs, and he had his handcuffs like this and held up high. And then the next thing I saw was Bilsky lying on the ground. In the meantime they had taken Poole in and the other two in. I picked Bilsky up and helped him just inside the door, and that is where I left him. I came back to see everything was all right outside. And the police officers was standing outside and I invited them in for a cup of coffee, that was it.

Q Let me just get back. You saw Poole come out and you saw him lunge for a police officer and then the police officers, three of them converged along with Mr. Addinall, is that correct?

A That is right, sir.

Q Did you see a police dog move at any time?

A Yes, the police dog came in I believe it was between Mr. Addinall and another police officer. It

came in between them and wentfor Poole. I think it caught him on the shoulder or something like that.

Q You were at the front door?

A Yes, I was at the front door.

Q Did you have a flashlight in your hand?

A No, sir.

Q Did you have a billy club?

A No, sir.

Q Were you within range to strike Poole on the head with a flashlight or billy club if you had had one?

A At fifteen feet, sir, no.

Q I take it the van wasn't right at the door?

A No, it wasn't right at the door. As I say, our van pulled up at the door you see and I told him to move on and park. And in the meantime the police van was stopped and the constables got out of one of the cars and opened the back door.

Q Is it your evidence that the only inmate that you handled at all when these four were returned was Bilsky?

A That is right, sir.

Q Now, you say Bilsky was on the ground?

A Yes.

Q How far from the door was he?

A Maybe eight, nine feet.

Q Had he fallen down?

A He had fallen down, sir.

Q Did anybody push him down?

A I didn't see anybody push him. As a matter of fact I was opening the door for the others to come through and Bilsky I saw him lying on the ground so I went and helped him up.

Q Did you see any other Correctional Officer with Bilsky?

A No, sir.

Q So you helped him up, did you?

A Yes, sir.

Q Did you help him up by the hair?

A No, sir. I picked him up by the arm and -- as a matter of fact this kind of thing, lifted him straight up.

Q Did any other officer help you take Bilsky through the doors?

A Not through the front door, no, sir.

Q Did you strike Bilsky?

A No, sir.

Q Did you see any other officer strike him?

A No, sir.

Q When you got him through the door what happened?

A Bilsky got up on his feet and I say at that time I turned around and went back and saw everything was all right outside. So the -- Mr. Andrews had got out of the truck for instance and I made sure he had locked that truck up. I told him to make sure he

had locked that truck up. And then the police officers were standing around. I said "You fellows might as well come in and have a cup of coffee."

Q Did you see which one of the officers took Bilsky after you went back out the door?

A No, I didn't, sir.

MR. PEACOCK: Those are all the questions that I have. Would you answer other counsel, please.

CROSS-EXAMINATION BY MR. STILWELL:

Q Did you see Mr. Poole on the 20th of September of this year?

A Yes, sir. When I was coming on shift at approximately 3:45, quarter to four.

Q What happened then?

A I've got a statement in my pocket. Can I read it, sir?

THE COMMISSIONER: When did you make the statement, when did you write it?

A I have got a typewritten copy and I have got the copy I made that night.

THE COMMISSIONER: Can you produce the copy you made that night?

A In my handwriting.

Q MR. STILWELL: These are notes that you made of this conversation immediately after the conversation was held?

A Yes, sir. Yes. I always do because if I decide to

write out a charge on this I have the information right there.

Q Now, would you tell us what Poole said to you, if anything?

A He called out to me first of all how --

THE COMMISSIONER: Mr. Scott, any objection?

MR. SCOTT: I have no objection, no.

A He called out to me "How are you?", and I answered, you know, I was about to answer fine. And he says "You hit me with a flashlight or someone did and I am going to get you you bastard."

Q "You hit me with a flashlight or someone did"?

A "Or someone did". That is right.

Q "And I am going to get you you bastard"?

A That is right.

Q This was on the 20th of September of this year?

A That is correct. And also there was officers Barret, Fenton and Martins that heard the conversation. Were standing by when it happened.

CROSS-EXAMINATION BY MR. SCOTT:

Q It would seem then, Mr. Cater, that Mr. Poole thought somebody had hit him with a flashlight, right?

A That is correct.

Q And he thought it was you. And you say today that you never hit him with a flashlight?

A I never had a flashlight in my hand, sir.

Q Did anyone else have a flashlight when these boys

were brought back from the hospital?

A I don't know if the constables did.

Q What about members of the staff of the Institution?

A I don't believe any of the staff in the Institution would have one because there was no need for one.

Q You can't recall seeing one?

A No, I can't recall seeing a flashlight at all.

Q Can you recall seeing anyone struck -- any of the inmates struck between the point that they came out of the police van and through the door of the Institution?

A Actually struck?

Q Yes.

A I saw it? No.

Q Did you?

A No.

Q Now, when Poole came out you say he raised his hands in this fashion over his head?

A Yes.

Q He never struck a blow against anyone though, did he?

A Well, this I couldn't say because there were other officers I explained earlier on were around him and I couldn't see exactly what went on in that group at that time.

Q What you saw was simply him raising his hands --

A That is right.

Q -- and then three people converged on him?

A That is correct.

Q You never saw his hands come down in a blow-like fashion?

A They were in --

Q They were up but they weren't down?

A Yes.

Q Were they up?

A They were up.

Q Okay. And then three people converged on him?

A Yes.

Q Did he go down on the ground?

A I wouldn't say exactly he went down on the ground.

Q What did he do then?

A It appeared that one of the constables was under him kind of thing and he just went backwards like. But he didn't actually, you know, fall down straight down on the ground.

Q When you say under him, what do you mean by under him?

A Well, the constable behind evidently was scared or maybe affected by the dog or may have been kicked or something, I don't know. But the way it happened was that the constable went like this way from him, pulled back up, maybe he was pushed, I don't know, but he backed up, and he eventually landed on the ground.

Q He ended up on the ground. Then he fell over one of the policemen?

A More or less.

Q And he did end up on the ground though?

A Yes, he did.

Q Now, were these three men, that is the two police constables and the Institution guard, were they still converged around him?

A No, they were trying to pick him up.

Q Did any of them hit him?

A I didn't see anybody him, no.

Q When he came through the door did you notice any marks on him?

A When he came through the door, no, I didn't.

Q Didn't you see a cut over his right eye?

A No, I didn't see a cut over his right eye. I wasn't looking at his face at all.

Q You saw the dog bite him, didn't you?

A I saw the dog go for him. I didn't see the dog actually contact him.

Q Where was he when the dog went for him?

A He was almost beside the police van at the time.

Q Was he standing up?

A He was standing up.

Q He wasn't fighting with anyone at the time, was he?

A He was wrestling with a policeman at the time.

Q He was what?

A He was like wrestling with a policeman at the time.

Q Was this before or after he raised his arms over his head?

A This was after he raised his arms over his head. As a matter of fact his arms were still up in this fashion.

Q Was it after he was down on the ground or before he went down on the ground?

A Before he went down on the ground.

Q I would like to know the sequence that took place from the point that he got out of the van to the point where he raised his hands, the police dog bit him, he fell down, he got up and was brought in. I would like that sequence explained again.

A Okay. He came out of the van with his arms raised. He went straight for this one police constable that was standing there.

Q How far away was that police constable?

A I'd say approximately ten feet. Because was standing well back from the -- and he came running out of the van. He jumped out of the van with his hands over his head and he was actually going for that police constable. This is what it appeared like to me. The other police constables and one of our officers converged on him, and this is actually all I could see that I could definitely say that I

seen.

Q When was he bit?

A When was he bit? It was all in the melee at this time. The police dog came up and seemed to bite him I would say around about here.

Q How close did he get to the man that you thought he was going to attack?

A I didn't catch that?

Q How close did he get to the police constable that you thought he was going to attack?

A He was right on him.

Q Did he hit him?

A Well, this as I say I couldn't see because the other police constables converged around him at the time.

Q Was one of the policemen that converged on him a person that looked like he was struck by Poole, that is the person ten feet from him?

A No, no, he was reeling back with Poole's push.

Q Did Poole actually touch this man?

A Yes, he touched him.

MR. SCOTT: That is all the questions I have.

MR. MEURIN: No questions.

EXAMINATION BY THE COMMISSIONER:

Q Were any of the city police wearing rain coats?

A No, I don't think so, sir.

MR. PEACOCK: Thank you, Mr. Cater.

(Witness retires)

MR. PEACOCK: I will call Constable Johnston, please.

CONSTABLE MICHAEL STANLEY JOHNSTON, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Constable Johnston, you are a Constable with the Calgary City Police Force?

A Yes, sir, I am.

Q Were you so employed on July 17th, 1973?

A Yes, sir, I was.

Q Did you have occasion to be called at the Calgary Foothills Hospital on the evening of July 17th?

A Yes, sir, I did.

Q And what was the nature of the call that took you there, do you know?

A To assist Gaol Staff from Spy Hill that were bringing in prisoners for treatment.

Q I see. And who was accompanying you?

A Constable Krauss.

Q And when you got to the hospital had the staff and inmates arrived yet?

A No, sir, they hadn't.

Q You waited for them there?

A Yes, sir. We got there about ten o'clock and they arrived about 10:15.

Q When they arrived could you tell us what occurred?

A Yes, sir. We were standing inside the main emergency ward when the van pulled up and one of the guards, I believe

Mr. Andrews, approached us and said "We are here, ready to unload." We walked outside. The van was sitting just outside of the ambulance entrance to the hospital. I motioned to the -- either myself or Constable Krauss, I think we both did at the same time, motioned for the van to pull into the emergency doors. And the van did. I believe it was Mr. Attenborough was driving the vehicle at the time. I went to the side of the vehicle along with Constable Krauss. Mr. Andrews went to the side door, opened it up, and at this time Bilsky, who was the first one inside the van, jumped out and caught me across the nose with his handcuffs.

Q Did you hear Bilsky say anything as he jumped out?

A Yes, sir. He said something to the effect "Get the pigs."

Q How far were you from the van when he first jumped out?

A I would say approximately three feet from the open door, when the door was open I was right in front of the van.

Q I see. There wasn't a great deal of time elapsed between the time he got out of the truck until you were struck in the face?

A There was no time at all. Maybe one or two seconds.

Q What happened to you as a result of this, did you fall down?

A Yes, sir. I flew back against a wall. There was maybe about four or five feet. He pushed me back in against the wall and I hit the ground.

Q What did you next observe?

A I managed to get to my feet and tried to grab ahold of

Bilsky. He was in the process trying to leave the emergency exit heading towards -- I guess it would be towards Crowchild Trail. There was an open door and he was heading towards that. One of the guards, I don't believe I can remember his name, jumped on his back and then we had another scuffle.

Q I see. Did you pull your gun at any time?

A No, sir. When I hit the ground I believe my gun fell out, because I picked it up. It was in my hand. When I realized it was there I put it back in my holster. Maybe 20 seconds would have elapsed by the time my gun was in my hand and it was back in my holster.

Q Did you strike anybody with it?

A No, sir, I did not.

Q Did you see Constable Krauss striking anyone with his gun?

A I didn't even see Constable Krauss. When Bilsky was on top of me I never saw Constable Krauss until he came back to the area.

Q I see. Did you become involved in any type of physical disturbance with the other inmates?

A I didn't personally, no, sir.

Q Did you see any further scuffle or any difficulty with them?

A Well, we had to take them into the emergency ward. By this time -- I might add that I sprained my hand. And I assisted in taking the fellows to the individual -- or the treatment rooms and then they were split up from the main treatment rooms and put in separate rooms.

By this time I went up to X-ray and had X-rays taken on my hand.

Q Did you suffer a cut to your face?

A Yes, sir, I had a cut on the bridge of my nose.

Q Was that treated at the hospital that night?

A There was not that much to it to require treatment. The doctor looked at it but there was no treatment required.

Q I take it you didn't have anything further to do with those gentleman after that?

A No, sir, I did not see them leave there if that is what you mean.

Q And you were not up at the Institute when they got there?

A No, sir, I was not.

MR. PEACOCK: Those are all the questions I have, Constable, thank you. Would you answer other counsel.

MR. SCOTT: No questions.

CROSS-EXAMINATION BY MR. MEURIN:

Q Is that a scar it has left on your nose?

A May possibly be. I never really noticed it.

MR. MEURIN: No further questions.

MR. PEACOCK: Thank you, Constable.

(Witness retires).

MR. PEACOCK: Call Sergeant Hibbert, please.

SERGEANT JOHN HIBBERT, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Sergeant Hibbert, you are a sergeant with the Calgary City Police Force?

A Yes, sir.

Q Were you so employed on July 17th, 1973?

A Yes, sir.

Q Did you have occasion to be called to the Foothills Hospital on that evening?

A Yes.

Q Would you tell us how the call came about and what happened?

A Yes, sir. Mr. Commissioner, approximately 10:00 P.M. on Tuesday the 17th of July, 1973, I was in a Police patrol car and I heard a call go out to another unit to go to the Foothills Hospital. A little later, about 15, 20 minutes later, another call came over the radio that the unit that had responded to the Foothills Hospital was having some form of trouble. I immediately started towards the hospital. Upon arrival I saw a van parked outside plus the Police vehicle, and the occupants of which were inside the emergency ward. I went into the emergency section of the hospital, spoke with Constable Johnston and Constable Krauss. I noted at this time their uniforms were both disorderly. Their ties were missing and it appeared they had been in a scuffle. They gave me certain information, from which I went to the one side of the ward. The south side. And in three separate rooms there were three different prisoners. At the far end was Cadieux, in the middle was

Poole, and at the west end was Gray. On the south side of the hospital in a separate room was the prisoner Bilsky. I ascertained from the staff at the hospital what their problem was. They said it was alleged they had been drinking something and they were about to give them some medical treatment in order to throw up. On speaking with the Correctional Institute staff they gave me information and from it I ascertained it was not safe for the four prisoners to go back in the van sent down from the Institute.

Q Did you call a Police van as a result?

A As a result of this I suggested to them emphatically that they should be escorted back in a Police paddy wagon. From my own personnel there, they came out -- I learned that the prisoners had come out with their hands hand-cuffed, but in to the front of them. This I changed, and they went back hand-cuffed behind, individually, using our own handcuffs. We escorted the paddy wagon back to the prison, to the Institute, where it was stopped in the Court Yard.

Q Now, when it was stopped in the Court Yard area were there other police officers besides yourself that accompanied the van back to the Institute?

A Yes, sir. There was Constable Holmes, who was also at the hospital. He is with our Canine Detachment, with the dog. He was at the hospital. He followed us back. There was myself, and there was the crew from the paddy wagon. I would say there were five, possibly six officers. I

believe there was a traffic car, a one-man unit that came back.

Q How many dogs?

A One.

Q Now, did you observe the prisoners coming out of the police van back to the Institute?

A Yes, sir.

Q What happened?

A The door was opened by the driver of the paddy wagon. And I was a few feet back from the door. And the four prisoners were told to get out of the van. They were handcuffed to the rear. They didn't get out straight away so I called Constable Holmes with his dog up a little closer to the van. He was about 10, 15 feet away from the rear van. At this Bilsky came out, came out of the van on his own, was taken by the Institute staff and immediately started to struggle, and from what I could see from it, although I wasn't involved in the struggle, he was trying to wrestle away from the two guards that had him. Second out was Poole. Poole came out of the van, and we had no trouble at all with Poole at the hospital. He was very docile at the hospital and self-controlled. However, when he came out of the van he stepped down out of the van and he immediately lunged at Constable Holmes, running at him. From what I could see he struck Holmes somewhere in the chest, and the dog who sat at Holmes' side leapt up at him.

Q Did you see the dog bite Poole?

A He was on him, whether the dog bit him or not I don't know, but he was on him. Next out was Cadieux, and then Gray came out last of all, and they were taken by the Institute staff into the building.

Q Now, after you saw Bilsky struggling as the staff were taking him into the door did you see anyone strike him?

A No, sir, I wasn't looking that way at all.

Q I am sorry?

A I wasn't looking into the building at all.

Q I see. Next thing you did was concentrate your attentions on Poole?

A Right, sir.

Q As this altercation between Poole and Constable Holmes was going on did you observe anyone strike Poole?

A No, sir. They were trying to lift him off and Holmes was trying to pull the dog off. Holmes was -- pardon me, the dog was on a short leash at the time.

Q Constable Holmes was trying to get the dog off Poole?

A Yes. He was a little unbalanced. You see when Holmes went for him he went backwards. Took a couple steps back. And he was a little off balance. The dog leapt and pulled him forward.

Q Did you see any of the prison staff or any police officers strike Gray and Cadieux as they came out of the van?

A No, they didn't strike anybody, sir.

Q Did you see anyone struck?

A No, sir, except Holmes.

Q How was he struck?

A In the chest. The blow landed in the chest.

Q That was when Poole came at him?

THE COMMISSIONER: How --

A When Poole came out of the van he ran forward. He stepped down and he sort of gathered momentum and ran into Holmes and his elbow -- or I could see his elbow was out and this is what was going. It was difficult, because he was running ahead from where I was.

MR. PEACOCK: Those are all the questions. I have, sir. Would you answer other counsel.

MR. STILWELL: No questions.

CROSS-EXAMINATION BY MR. SCOTT:

Q I take it both hands were handcuffed behind his back, weren't they?

A Yes, sir, to the best of my recollection.

Q It would be impossible for him to raise his hands over his head?

A Well, he was running ahead of me. I was towards the rear of him at this time. And from what I could see it would appear as though he had his arms up like so. And his elbow was the thing that was going.

Q But to answer my question he would not be able to lift his hands above his head in that fashion?

THE COMMISSIONER: Handcuffs behind his back.

A Handcuffs behind his back.

Q MR. SCOTT: Right. With his handcuffs behind his back. Now, did you actually see Poole hit

Constable Holmes? Did you see him touch him?

A I could see the two bodies get together, and as I say what appeared to be the elbow go towards Holmes' face, Holmes went back and it landed on the chest area.

Q Right. So Holmes moved back in this fashion to avoid the blow?

A Right.

Q And the dog on a short leash leaped forward towards Poole, is that right?

A This is right.

Q I take it Holmes never went to the ground, did he?

A No.

Q Poole I understand did end up on the ground?

A Yes. From the dog.

Q From the dog?

A From the dog and his momentum going forward.

Q Did you see any of the other police constables there or any of the Institution guards converge on Poole at that point?

A No. There were the two guards that were about to take him from the van as he stepped down, they went and picked him up off the ground and carried him in.

Q Did he offer any resistance at that point?

A He was struggling all the way in towards the door.

Q By struggling you mean he was more or less bracing his feet against the ground to resist forward motion?

A I couldn't tell you what he was doing, but he was struggling.

Q How were the guards treating him, were they just holding his arm or --

A Right, one on each side.

Q Did you see them strike him?

A No.

Q Did you see Poole with a cut on his face?

A No, I didn't. I never saw Poole from the time he left Holmes, I never saw him again afterwards. I never saw any of the prisoners afterwards.

Q Did you see anyone with a flashlight in their hand that night?

A No, sir.

Q Never saw a flashlight?

A There were no flashlights in that Court Yard as far as my memory is concerned, and I never saw any of the prison staff with them.

Q Did you see any of the guards land any type of blows, light blows even --

A No blows at all.

Q -- on any prisoners? None at all?

A The prisoners were struggling. Bilsky and Holmes were struggling. And Gray and Cadieux they went in in normal fashion.

Q So Bilsky and Poole were the only two who were offering any resistance going into the Institution?

A As far as I could see, yes.

Q And you never saw them hit, they weren't pushed?

A They weren't hit. Not in the Court Yard within my sight.

MR. SCOTT: Okay. That is all the questions I have.

MR. MEURIN: No questions.

MR. PEACOCK: I wonder if I might ask --

RE-EXAMINATION BY MR. PEACOCK:

Q You have indicated that as far as you can recollect all the inmates had their hands cuffed behind them?

A Coming back from the hospital.

Q If I advised you that evidence of Mr. Poole was that he had endeavoured to keep himself on his feet by grabbing at a policeman's raincoat as he got out of the van would you agree that he would have difficulty in doing so if his hands were cuffed behind his back?

A There would be quite some difficulty.

Q And if I advised you there was other evidence that his hands were over his head -- I think you have indicated to Mr. Scott that he would have difficulty if his hands were behind his back?

A That is right, sir.

Q Was the decision to handcuff the prisoners' hands behind their backs made by you?

A Right, sir.

Q And this was I take it there would be less -- or more difficulty for the inmates to make trouble if their hands were behind them in that fashion?

A From the information I had received this was the cause of the trouble at the commencement getting out of the van at the hospital, they were handcuffed in front.

Q Do you recall who put the handcuffs on the inmates?

A No, sir. Not going back to the hospital. Going back to the Institution, no, sir.

MR. PEACOCK: Those are all the questions I have.

EXAMINATION BY THE COMMISSIONER:

Q Did you supervise the handcuffing?

A No, sir.

Q You just gave instructions?

A I just gave instructions.

Q And then you didn't see them -- you didn't see them handcuffed then, did you,at the hospital?

A Not all of them, no, sir. And I don't recall which ones I did see.

Q Does your memory serve you accurately as to how you observed the handcuffs when they got out at the Institution?

A Yes, sir. As I say, Bilsky came out and he was handcuffed to the rear. Poole came out, and I wasn't anticipating trouble from Poole, and it took me on the hop when he came out and lunged at Holmes, went for Holmes.

Q Is there any doubt in your mind as to where his hands were when he came out?

A Well, sir, I was going on my instructions that the four were to be handcuffed behind. I distinctly remember Bilsky coming out with his hands behind him. Cadieux came out with his hands behind him. Gray came out with his hands behind him. I wasn't paying that much attention to Poole when he stepped out of the van.

Q So I take it, Sergeant, you are relying more on your instructions than what you saw as to where Poole's hands were?

A As regards to Poole's hands, yes, sir.

THE COMMISSIONER: Anything arising out of that?

MR. SCOTT: No, sir.

MR. PEACOCK: Thank you, Sergeant.

(Witness retires).

MR. PEACOCK: Might we adjourn for 10 minutes.

(Adjournment).

MR. PEACOCK: I will call Constable Holmes, please.

CONSTABLE EDWARD JAMES HOLMES,

having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Constable Holmes, you are a constable with the Calgary City Police?

A I am, sir.

Q You were so employed on July 17th, 1973?

A Yes, sir.

Q Did you have occasion to be called to the Calgary Foothills Hospital?

A I was.

Q And for what purpose?

A To give assistance.

Q And did you know what the assistance was to be given for?

A Yes. As a result of an urgent radio call I attended

at the Foothills Hospital.

Q Sir, are you involved in a division of the Police out of the ordinary?

A Involved with a Canine Detail, yes.

Q And that is in charge of police dogs, is it?

A One police service dog.

Q One police dog?

A Yes, sir.

Q What is the name of the dog that you are in charge of?

A Peko.

Q And have you trained this dog?

A Yes, I have.

Q And then I take it that the police dog is trained so that one officer is in charge of the dog?

A Yes, we each have our own.

THE COMMISSIONER: Is he a German Shepherd?

A Yes, sir.

Q MR. PEACOCK: Now, July 17th when you got called to the hospital did you take the dog with you?

A Yes, I did, sir.

Q And what did you observe when you arrived at the hospital?

A When I arrived at the hospital I left the service dog in the car. I went into the hospital myself. I had a conversation with Sergeant Hibbert and Constable Krauss and as a result of further observations I made on my own I went back to the patrol car in the parking lot and brought the service dog into the foyer of the hospital, placed him in a corner and left him there.

Q Did you observe any altercations or violence when you were at the hospital?

A There was a lot of shouting and abusive language going on by Bilsky, mainly by Bilsky.

Q And this is one of the inmates you understood had come in from the Institute?

A Yes.

Q Did you have to make use of the dog or your own forces while you were at the hospital?

A No, I didn't.

Q I take it that you were subsequently asked to proceed and accompany the inmates back to the Institute when they were finished at the hospital?

A Yes, I was.

Q Did you go back in a separate vehicle?

A Yes. We have our own patrol cars with a cage in the back.

Q I see. And when you arrived at the Institute were the -- was the van with the inmates in it already there or did you get there first?

A I followed right behind the van right from the hospital to the Institute.

Q Will you tell us what happened when you got to the Institute please?

A When I got to the front of the Institute I took the service dog out of the vehicle. The prisoners were ordered out of the van by Sergeant Hibbert and some of the Institutional staff. The prisoners would not leave.

There was a pause of I think about five or ten seconds. Sergeant Hibbert advised me to put the service dog in the van. This wasn't done. However, the dog started barking and Bilsky came out of the van. At this time he came out fighting and kicking, trying to hit the guards with the handcuffs. Two of the guards grabbed him and started walking him towards the doorway. After he had got by me, he had shrugged one of the guards off, and was attempting to put the handcuffs, either strike them, and it appeared that he was trying to get it over his head. At this time I put the service dog on Bilsky and he bit him in the thigh, in the right buttock. The dog was taken off and other guards had come from the step and carted him off into the Institute.

Q Is there any doubt in your mind that you are talking about the inmate Bilsky?

A This is Bilsky. He was the first one out.

Q And you say that his hands were in front of him?

A Yes, handcuffed like so.

Q What is the next thing you recall?

A After Bilsky was carted off I went back. I was positioning myself halfway, approximately halfway between the van and the front steps of the Institute. Just as I got back to the halfway mark Poole came out of the van. Had shrugged one of the guards that had grabbed him by the arm and came running at me full tilt. Just before he got in front of me he came at me with his handcuffs, trying to hit me on the head and kick at the service

dog at the same time. At this all I could do was I moved the top portion of my body back and as he tried to kick at the dog the dog bit him under the right armpit and breast, knocking him off balance, and he was jumped by four guards.

Q Did you see any of the guards strike Poole during this altercation?

A Not right at this. When he was dragged up the stairwell two guards had him. I saw one guard, I don't know who it was, reach over the guards that had ahold of him and hit him on the head with an object.

Q And this would be on the stairs, would it be?

A Just inside the doorway.

Q Was he still struggling at this time?

A Yes, he was.

Q Are you able to identify who the guards were?

A No. I know the one that hit him reached over the other guards that had ahold of him. I don't know who it was.

Q Did you see what he had in his hand when he struck him?

A It looked like a billy. I hadn't seen that type before.

THE COMMISSIONER: Show him the exhibits, please. Let him look through it.

Q MR. PEACOCK: Constable, could you examine the box of exhibits and are you able to identify from what is in that box what -- can you see if any of those exhibits are like what was in the hand of the guard at that time?

THE COMMISSIONER: Just hand them to him.

A All I can say is an object similar to this only I thought it was black.

Q MR. PEACOCK: Would it be about that size?

A I am sure it wasn't any longer.

Q And you are not able to identify by name the officers that were involved in taking him up the steps or the officer that struck him?

A No. I knew none of the -- that is the first encounter I had with any of the staff up there.

Q Did you see any of the inmates after they were taken into the Institute?

A Yes. After Poole had been carted away I saw Cadieux walk -- I went back to the middle part between the van and the steps again. I saw Cadieux walking up towards the stepway. No one had ahold of him. He looked in my direction and at the dog and continued and walked into the cells. I then went into the Institution with police personnel and guard staff. As a result of a conversation with Warden Jackson and SergeantHibbert I remained at the Institute until 1:00 A.M. During that time while I was in the coffee room I was called out for a request for assistance with the service dog. I took the service dog with me and I went down a flight of stairs. Prior to this I gave Warden Jackson my service revolver. Went downstairs, stayed in the hallway. A few of the guards went a short ways down the hall to

the cells, removed handcuffs. There was no further altercations or anything.

MR. PEACOCK: I see. Thank you. Those are all the questions I have. Would you answer other counsel please.

MR. STILWELL: No questions.

CROSS-EXAMINATION BY MR. SCOTT:

Q When you arrived at the Institute did you precede the van or did you arrive after the van arrived, that is the Police paddy wagon?

A I followed it right from the hospital right directly behind and stopped behind the vehicle.

Q So therefore you saw the van or the paddy wagon door open, is that right?

A Yes.

Q And I take it from your testimony that initially the inmates would not leave the paddy wagon?

A No, they wouldn't.

Q And you were almost in the process of preparing to enter it with your dog?

A No way.

Q You weren't going to?

A No.

Q Isn't that what Sergeant Hibbert told you to do?

A That is correct.

Q But you weren't going to go in there?

A No, I wasn't.

Q Why wouldn't you go in there?

A It would be like throwing a chunk of meat into a den of lions.

Q Who was the meat, the dog?

A In that case the dog wouldn't have had a chance in that close confined quarters.

Q He wouldn't have had a chance, is that what you are saying?

A Yes.

Q So you had no intention of following Sergeant Hibbert's suggestion or order?

A With all due respect, no.

Q However, the dog did start to bark at that point?

A Yes.

Q And then you say you saw who first?

A Pardon?

Q Who was the first inmate that you saw come out?

A Bilsky.

Q Bilsky. Now, was he handcuffed at the time?

A Yes, he was.

Q Were his handcuffs in front or behind?

A In front.

THE COMMISSIONER: No doubt in your mind about that?

A There is no doubt, sir.

Q MR. SCOTT: Have you stated today, sir, that he made a charge towards you?

A Bilsky, no.

Q He didn't. But the dog bit him?

A That is correct.

Q On the buttock?

A Yes. I put the dog on Bilsky after he had shrugged one of the guards and attempted to put the cuffs over the head of one of the guards.

Q Was Bilsky on the ground at any point during this melee?

A Not at that time. After he was.

Q After the dog had bit him?

A After the dog had bit him, yes.

Q Did he go to the ground at that point?

A He was still standing when the dog bit him the first time, and I would say he was on his knees, the dog got another bite in there, as the guards overpowered him.

Q So the dog bit Bilsky twice?

A Yes.

Q Did the dog bite him more than twice?

A No.

Q Did you see any of the Institution personnel strike Bilsky?

A It was more of a wrestling match than anything. Bilsky is a pretty powerful man.

Q Yes. Do you recall any blows being landed on Bilsky?

A No, I don't.

Q Now, the next person that came out was Poole, was it?

A Yes.

Q And Poole, how was he handcuffed?

A In front.

Q He was handcuffed in front as well. Did he strike you? Did he actually touch you?

A When I went back he missed my head and all he got was my chest and my jacket. He didn't hurt me, but that is where he hit me.

Q It was at that point that the dog leapt up and bit him under the armpit?

A Well, at the same time he was taking a swing at me he was trying to kick at the dog at the same time. How the dog even got between him and bit him I don't know, but he did.

Q Did the dog bite Poole the second time?

A No, he just bit him the once.

Q Did Poole go down to the ground?

A Not at that time, but it knocked him off balance, and four guards, I think three or four guards that were on the steps overpowered him and carted him off.

Q Did you see at that point and up to the point where you saw somebody reach over top of the two escorting guards, did you see anyone strike Poole?

A No.

Q How long did Poole wrestle on the ground with the guards, how long did this particular portion of the fracas last?

A When the dog bit him the fight was pretty well over.

Q You mean he went down on the ground and then/these three or four guards came on him, is that right?

A Poole didn't go down on the ground at all. Knocked him off balance and at the same time the guards came up from behind and jumped him and started carting him off. When they got in the doorway, that front entranceway,

that is when I saw someone reach over the guards that had him and hit him with the object.

Q Over the right eye, is that right?

A That is correct.

Q Now, the persons who escorted him you didn't know who they were at that time?

A No.

Q Did you see them here today?

A I've seen the guards that I saw at the Institute. Now, which ones had ahold of him I don't know.

Q Do you see any of them in this Court Room today right now that were -- either of the two that escorted Poole?

A I don't know which ones escorted him.

Q What about the person that struck him, did you see him here today?

A I don't know that man. I couldn't identify him.

Q You can't remember what he looked like?

A No.

Q Is that what you are saying?

A No, that is correct.

Q The person that struck him was he standing at the entrance to the -- main entrance into the foyer of the Institution, is that where he was standing?

A In the entrance there was quite a few guards around and all I saw was the arm reach over the other guards and strike this man.

Q Was this person more or less standing alone or was he in a group of prison guards?

A Well, when he struck him he was reaching over.

Q Was he standing with a group, a whole group of guards standing together and he just reached out of that group over top of these two, or was he standing alone, can you recall?

A I'm afraid I don't understand what you mean.

Q Well, were there other people standing with the person that used this club on Poole? Were there other guards standing with him at the time?

A They weren't just standing around. Nobody was just standing around. There were guards at the entranceway. Now, when Poole was being carted into the Institute during this process he was still -- he wasn't really fighting but he was struggling, and during this process all I saw was someone reach over the guards that had him and whack him over the head with the instrument.

Q Were the two guards that were escorting Poole, were they having any difficulty in getting him in?

A He was struggling, yes.

Q Was he struggling -- was he really struggling or was it just that he was sort of resisting and they were effectively moving him in?

A He was resisting. Poole was mad.

Q He was mad. What did Poole do when he got hit?

A Pardon?

Q What did Poole do when he got hit?

A Nothing.

Q Nothing. Okay. Did he stop resisting?

A Pardon?

Q Did he stop resisting at that point?

A Right after he got hit he went in through the other door and I didn't see him.

Q Is there any way -- I know you can't speak for the two people that were escorting him in, but this blow that was struck, would it have been such that they would have noticed that it was happening?

A It is possible. There is a lot of confusion. There is arms and everything flying all over the place.

Q What I am getting at is -- there has been no other testimony that this man was struck today, we have had testimony by people who did escort this man. Now, what I want to know is whether or not the way -- the manner of the striking of the blow is such that it would -- that you thought these people would notice, or was it --

A It is possible. I wouldn't make any firm judgment on that.

Q I see. So they could have noticed or they might not have, you can't really say. It wasn't obvious that they would definitely notice it?

A It is possible. On the angle I was standing at I could see it. Now, whether they could see it I don't know.

MR. SCOTT: Okay.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, getting back to this time when Sergeant Hibbert told

you to send the dog in to get these people out. I take it that it was said in such a manner that the prisoners in the van would have been able to hear it?

A My interpretation of it was that it was to scare the men into getting out. I don't think Sergeant Hibbert meant that.

Q And the dog barking or growling could have been part of the same sort of show?

A Yes.

Q In other words, they don't necessarily know that you are not going to send the dog in, but you are going to make them think that you are to get them out?

A Yes.

Q Was the dog given any shot as a result of this contact with human flesh afterward?

A In this type of work they build up an immunity.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Thank you, Constable.

(Witness retires).

MR. PEACOCK: Call Mr. Addinall, please.

THOMAS WILLIAM ADDINALL, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Addinall, you are employed at the Calgary Correctional Institute?

A Yes, sir.

Q In what capacity?

A Correctional Officer 2.

Q And you were so employed on the 17th of July, 1973?

A I was, sir.

Q Did you have occasion to become involved in a decision to transport four inmates to the Foothills Hospital that night?

A No, sir, I was not on duty at that time.

Q Were you on duty when they were brought back from the hospital to the Institute?

A Yes, sir.

Q Can you tell us what occurred from the first time that you became involved in this incident, please?

A I became involved when we were advised they were on their way back to the Institution, and with several other officers went to the front door to bring them into the Institution and place them back into safe custody.

Q And what occurred?

A The Police van stopped and the door was opened, the inmates were requested to get out of the vehicle. One of the inmates, Inmate Poole, said "If you want us you come in and get us." At that point I think it was the Police Sergeant instructed the dog handler to move forward with the dog. The inmates then started coming out. And one of them was taken quite easily into the Institution. The next two were violent to a degree.

Q Who was the first one out to your recollection?

A I can't recollect the first one out. I can recollect the last one because this is the one I dealt with.

Q Who was that?

A The last one was Inmate Poole.

Q Now, when the first inmates came out you say two of them were causing some kind of a disturbance. Do you know who the other one was who was causing the problem?

A Gray -- Cadieux and Bilsky were -- came out quite agressively. Gray came out reasonably placid and was taken to the Institution doors and then taken away.

Q Now, when these inmates came out, and in particular when Bilsky came out, did you see him involved in an altercation with Police officers?

A When Bilsky came out the first I saw of him was when he went onto the ground.

Q Did you have anything to do with that?

A No.

Q And when he was on the ground did you observe what was happening to him?

A No, because I was waiting for Poole to come out and I didn't want everyone to have their back turned to the vehicle at that time with an inmate still in there.

Q So you didn't observe what happened to Bilsky?

A No, sir.

Q Are you aware that people escorted Bilsky inside the Institute?

A Yes, sir.

Q Now then, your attentions were directed directly at Mr. Poole?

A That is right.

Q He was the last one out?

A Yes.

Q What do you recall happening?

A When he decided to come out he came in a crouched position as they were in the lower van, jumped straight out, and made a blow with his handcuffed arms and struck the dog handler Constable Holmes.

Q There is no doubt in your mind that his hands were cuffed in front of him?

A There is no doubt at all in my mind. He raised them above his head and struck the officer.

Q Now, when he struck Constable Holmes what happened?

A Well, it was -- everything was then very quickly. Each occurrence was very quickly. He turned as though to strike someone else, and the dog moved at him and got ahold of him at the lower part of the chest, and I put my arms under his arms and brought him down in a restraint, and there was a general melee and then I hustled him into the Institution.

Q Now, did anyone help you take him from that position into the Institute?

A Not at that point. They were there -- he was striking at them and I did see someone appear to ward off a blow as I pulled his arms down.

Q Were you the only one that took him from the van into the Institute?

A Yes, sir.

Q And how were you holding him?

A I was holding him from behind with my arms under his

armpits, holding his wrist, his handcuffed wrist, and pulling them down to the lower part of the chest.

Q You had a bit of a hug on him?

A I was chest to back. Moved him in lock-step all the way into the Institution.

Q When you got to the front door did anyone come to your assistance?

A There were officers there but I had him under control. They were there. Whether it would appear they were assisting or not it is hard to say in someone's eyes, but no one else held him at that point.

Q Was he still struggling as you went up the stairs?

A He was struggling all the way into the Institution until we reached the vicinity of the guard room.

Q Now, before or as you entered the Institute I take it your head was fairly close to his head?

A It was sort of behind it, yes.

Q Did you see any of the officers strike Poole in the head with an object?

A Not at all.

Q Did you see anyone strike Poole in the head with an object while he was involved in the melee, where the dog was involved, just outside the van?

A I saw no Institutional equipment used outside.

Q Did you see any of the officers there with a flashlight?

A I did not.

Q Did you see any of the officers that night with a billy club?

A Not at the front door, sir.

Q Did you see any officers at any place with a billy club?

A I saw them handing them in before we went to the front door.

Q I see. Was this after the incident in the West Wing?

A Yes, sir.

Q So your evidence is that you saw no one strike Poole from the time you got him in this locked position until you got him down to the guard room?

A There was a flurry of arms about that time because he was striking at people.

Q This was on the way up the steps?

A That was on the way from the van to the front door. It only is a sidewalk step.

Q When you got him to the door did you take him yourself from there down to the guardroom?

A I did.

Q Did he fall?

A He was all the time trying to break away, trip me, do anything he could. He was in a very violent state, reacting violently. He did fall. Twice on the way he tripped me and we both rolled on the ground and I dragged him up again.

Q I see. Did you ever at any time grab him by the hair?

A At no time at all. I couldn't. I was holding both his arms, sir.

Q I see. When you got him to the guard room what happened?

A I put him in the interview room as directed by Mr. Merriam.

Q Did you then leave him?

A Then I went and took on my duties in the night shift, the detail staff for night duty.

Q Did you see Bilsky, Cadieux or Gray at any time after they got into the Institute that night?

A As I got pulled towards the guard room I just saw them going downstairs into the cell area at the lower guard room.

Q Did you see anybody dragging them by the hair?

A No, sir. I was too preoccupied with Poole to notice exactly what was happening, just the fact --

MR. PEACOCK: Thank you, Mr. Addinall. Those are all the questions I have. Would you answer other counsel please.

MR. STILWELL: No questions.

CROSS-EXAMINATION BY MR. SCOTT:

Q I believe that you said words to the effect that when you were taking Poole after Poole had been bitten by the dog, you were manoeuvring him into the Institute, you were doing it yourself, right?

A Basically. There were other officers around, but no one else had ahold of his arms but myself.

Q I realize that, sir. So you were the one that had control of him?

A Yes.

Q I believe you said words to the effect that you were able to handle him?

A Yes, I felt -- yes, I felt I was capable of handling him.

Q And in fact you did get him into the Institution without any additional help from any other person?

A Yes.

Q Now, you referred to a flurry of arms. I am afraid I don't quite understand the manner in which you were holding him.

A Well, that was at the time I was bringing him under restraint. He was striking at the several officers that stood around the back of the van, and obviously they were not -- they were trying to avoid being struck by handcuffs.

Q So this flurry of arms that you referred to actually took place --

A That is right.

Q -- at the --

A Well, between the van and the Institutional door.

Q But it took place towards the van and in the area that he attempted to hit Constable Holmes and was bitten by the dog?

A Between that area and the front door.

Q And was this in the initial stages of when you were trying to subdue him and get control over him?

A Yes, in that period. It was only a matter of probably four or five seconds overall.

Q This incident with the dog and --

A Yes.

Q -- the flurry of arms?

A And getting him to the front door.

Q You mean it only took four or five seconds for him to be bitten by the dog and the incident with Holmes and get into the door?

A And get to the door, yes.

Q How far would you have moved from the point that you got him in whatever type of hold you had to the door?

A A distance in that point is probably 10, 15 feet. 15 feet maybe.

Q So there would be about 10 or 15 feet that you moved him from the dog -- shall we say the dog incident, Canine incident, to the door, about 10 or 15 feet?

A Yes.

Q Right? Okay. And this flurry of arms that you refer to --

A Was in the early stages of that move.

Q Right. Approximately how far away would you be from the door when the flurry of arms ceased?

A I wouldn't know. I had more important things on my mind at that time.

Q You had him under control, didn't you, at that one point?

A I had him under control before we got to the door, yes. I had to struggle for control in the first place. The man was being violent, sir.

Q I realize that. What type of a hold did you have on him now, was it a --

A I had my arms under his armpits holding his handcuffed wrists and intially attempting to pull them to his chest, and eventually getting them there, and locking them in that position.

Q So your chest would be right flush against his back?

A Back,, yes.

Q You would have your arms through his arms underneath his armpits and you grabbed his wrists and --

A Pulled them downwards.

Q So they would be like this, right?

A That is right.

Q Okay. So you are holding them about like that so to speak, is that right?

A Yes.

Q Behind you. I take it your head would be right up against his head or close to it?

A Pretty close to the back of his head it would be, sir.

Q Did you see Mr. Cater that night?

A When I went out to the police van Mr. Cater was just within the front door.

Q I see. Did you see Mr. Cater in possession of any billy club or flashlight or any stick of anything similar to that?

A I saw no one at the front door in possession of any of the equipment of the Institution.

Q If I was to suggest to you that Mr. Poole was struck over the right forehead in the right eyebrow area do you think there is any way that could have happened without you noticing it, if I was to suggest it happened at about the door and that a guard struck him with a stick of some sort, a billy club or a flashlight, do you think that could have happened without you noticing

it?

A I doubt it, because if that would have happened his head would have hit mine and I probably would have had a cut eye.

Q Did you notice Mr. Poole with a cut eye?

A Not until afterward when we got him into the interview room and he was taken to the medical for attention.

Q Did he tell you how he received that cut?

A I didn't stop to speak to him. I had other duties to perform, sir.

Q Did he complain to you his eye had been cut?

A Not to me, sir.

Q Did he complain to anybody in the vicinity?

A I don't know.

MR. SCOTT: Thank you. That is all the questions I have.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Thank you, Mr. Addinall.

(Witness retires).

MR. PEACOCK: Sir, that is the evidence I propose to call this afternoon. I have possibly four more witnesses with respect to this incident. They should be extremely brief. I might point out now that Mr. Stilwell isn't here to disagree with me that a further officer I proposed to call was Constable Krauss, who was at the hospital when the altercation took place

between Bilsky and Constable Johnston. Apparently Constable Krauss is away from the City for approximately a week. I have spoken to other counsel, and unless there is any strong disagreement, I think we have heard from several witnesses at the hospital and I don't propose to call him unless other counsel wish to call him.

THE COMMISSIONER: We certainly cannot wait a week for Constable Krauss.

MR. PEACOCK: No. Tomorrow, sir, we have four witnesses to conclude this. I would think we would be done within an hour. We then would go to the fifth incident and I believe we only have five witnesses.

THE COMMISSIONER: You probably could finish the incidents tomorrow?

MR. PEACOCK: I would think early tomorrow afternoon, and if that is the case perhaps we could begin on the general portion of the Inquiry Friday morning.

THE COMMISSIONER: I would like that.

MR. PEACOCK: And I think we have discussed we will adjourn at noon Friday, so that we will only sit Friday morning. Now, if you wish, we could finish off the incidents tomorrow and reconvene Monday.

THE COMMISSIONER: Let's see how we proceed. I would think, Mr. Peacock, we should finish next week.

MR. PEACOCK: Well, as I say, when we inquire into general things I suppose we could be here forever.

THE COMMISSIONER: I know, but we are not going to.

MR. PEACOCK: I would like to finish next week. We have names of some 29 witnesses who feel that they all have something to say in this regard.

THE COMMISSIONER: I am sure they do.

MR. PEACOCK: And, of course, if any of the other counsel have witnesses that aren't on the list that they wish to call we would add them to the list. I think perhaps what we will do is this, we will finish off these five incidents tomorrow and then perhaps all counsel can meet and we can decide on the course of the General Inquiry and the witnesses to be called.

THE COMMISSIONER: You can make it clear, Mr. Peacock, that this Inquiry would welcome anyone coming forward who feels they have some evidence which may bear on this Inquiry, and I would ask all persons to do so.

MR. PEACOCK: Thank you, sir. If we could adjourn until ten o'clock tomorrow morning.

THE COMMISSIONER: I can well understand there being custodial problems, but I think we do want to finish.

MR. PEACOCK: I will make every effort. I suppose if we met with counsel prior to this general portion of the Inquiry and we can reach some idea as to

how it goes, perhaps we could decide amongst ourselves which witnesses to call and which witnesses perhaps not to call.

THE COMMISSIONER: Perhaps if we could have a short meeting of counsel now when we adjourn.

MR. PEACOCK: Fine. We will reconvene tomorrow morning at ten o'clock.

THE COMMISSIONER: All right.

MR. PEACOCK: Thank you.

(Hearing adjourned).